

OSU MARCHING BAND
CULTURAL ASSESSMENT &
ADMINISTRATIVE OVERSIGHT REVIEW

November 18, 2014

OSU MARCHING BAND CULTURAL ASSESSMENT
&
ADMINISTRATIVE OVERSIGHT REVIEW

SUBMITTED BY:

The OSU Marching Band Culture Task Force

SUBMITTED TO:

Michael V. Drake, President, The Ohio State University

Jeffrey Wadsworth, Chair, The Ohio State University Board of Trustees

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The Task Force wishes to thank the many members of The Ohio State University Marching Band community—students, faculty, staff, alumni, parents, and neighbors—who generously took time to share their experiences and insight with us.

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OSU MARCHING BAND CULTURE TASK FORCE

CULTURAL ASSESSMENT & ADMINISTRATIVE OVERSIGHT REVIEW

November 18, 2014

I. Mission

On August 4, 2014, The Ohio State University (“University”) President Michael V. Drake and the Board of Trustees appointed former Ohio Attorney General Betty D. Montgomery to lead a Marching Band Culture Task Force (“Task Force”) and charged the Task Force with conducting an assessment of The Ohio State University Marching Band’s (the “Band’s”) culture, and to review the University’s administrative processes and oversight of the Band. Upon completion of this assessment, the Task Force was to make recommendations for change if needed.¹ The Task Force was established after the University completed a Title IX investigation, which indicated that the Band’s culture creates a hostile environment for students in that it facilitates acts of sexual harassment, and the Band Director knew or reasonably should have known about this culture but failed to eliminate the sexual harassment, prevent its recurrence, and/or address its effects.²

The Task Force was led by former Ohio Attorney General Betty Montgomery. Other Task Force members included the nationally-recognized law firm of Arent Fox LLP to assist with the assessment and to provide the Task Force with Title IX and other legal expertise, David Vaughn Consulting Group to assist with all aspects of the Task Force, ModernThink LLC to conduct an online, qualitative and quantitative survey of the Band’s culture, Ernst & Young (“EY”) to assist with data collection and analysis, and Steiner Public Relations to assist with the Task Force’s drafting, communications, and media relations.

II. Relevant Laws & Policies

As a public institution of higher education and a recipient of federal funding from the United States Department of Education (“DOE”), the University and the Band are subject to a variety of federal laws. For the purposes of this review, the Task Force referred to three specific federal laws to serve as a guiding regulatory framework in its review of the Band’s traditions:

- Title IX of the Education Amendments of 1972 (“Title IX”)³

¹ Appendix A: August 4, 2014 letter from OSU President Michael Drake to Betty Montgomery.

² The Ohio State University Office of University Compliance and Integrity, Investigation Report: Complaint Against Jonathan Waters, Director of the OSU Marching Band, July 22, 2014 (the “Title IX Report”). The Title IX Report can be accessed in full at <http://www.osu.edu/assets/pdf/Investigation-Report.pdf> (last visited November 10, 2014).

³ 20 U.S.C. §§ 1681-1688; 34 C.F.R. Part 106. The full statutory text of Title IX can be found at <http://www.justice.gov/crt/about/cor/coord/titleixstat.php> and the implementing regulations can be found at <http://www.justice.gov/crt/about/cor/byagency/34cfr106.php> (both last visited November 10, 2014). Title IX as it applies to educational institutions is enforced by the Office of Civil Rights within the Department of Education (“DOE”) and the Civil Rights Division, Federal Coordination and Compliance Section within the Department of Justice. The Office of Civil Rights’ website can be found at <http://www2.ed.gov/about/offices/list/ocr/index.html> (last visited November 10, 2014) and its list of Title IX-related publications can be found at <http://www2.ed.gov/about/offices/list/ocr/publications.html> (last visited

- The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the “Clery Act”)⁴
- The Family Educational Rights and Privacy Act (“FERPA”)⁵

In addition to federal law, the Task Force considered the following University and Band policies that also regulate Band member conduct:

- The University’s Student Code of Conduct (the “Code”)⁶
- The Band’s Policy and Procedures (“PnPs”)

Band members are—first and foremost—students at The Ohio State University; Marching Band is an academic class for which students receive a letter grade. The University views its core missions as follows: “to foster the scholarly and civic development of the university’s students in a safe and secure learning environment, and to protect the people, properties and processes that support the university and its missions.”⁷

As University students, Band members are subject to Ohio law⁸ and the Code; only Band members are subject to the PnPs. The student Code of Conduct states that all students are subject to the Code at all times on-campus, and off-campus if a student’s conduct causes substantial destruction of property, or causes or threatens serious harm to members of the University community, or if police are summoned or a police report is filed as a result of the student’s behavior. Additionally, the University’s position is that the Band’s *Standards of Behavior for Members of The Ohio State University Marching Band*⁹ extend to all on- or off-campus conduct and behavior and draw no distinction as to whether the behavior takes place during sanctioned or unsanctioned Band events or non-Band events, nor does it matter whether the student is wearing the Band uniform at the time of the prohibited behavior or conduct.

November 10, 2014). The Federal Coordination and Compliance Section’s website can be found at <http://www.justice.gov/crt/about/cor/coord/titleix.php> (last visited November 10, 2014).

⁴ 20 U.S.C. § 1092(f). The statutory text of the Clery Act can be found at <http://www.law.cornell.edu/uscode/text/20/1092> (last visited on November 10, 2014). The Clery Act is enforced by the DOE; the DOE’s Clery Act website can be found at <http://www2.ed.gov/admins/lead/safety/campus.html> (last visited November 10, 2014).

⁵ 20 U.S.C. § 1232g; 34 C.F.R. Part 99. The statutory text of FERPA can be found at <http://www.law.cornell.edu/uscode/text/20/1232g> and its implementing regulations can be found at <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=11975031b82001bed902b3e73f33e604&rgn=div5&view=text&node=34:1.1.1.1.33&idno=34> (both last visited on November 10, 2014). FERPA matters are handled by the Family Policy Compliance Office (“FCPO”) within the DOE. The FCPO’s website can be found at <http://www2.ed.gov/policy/gen/guid/fpc/index.html> (last visited November 10, 2014).

⁶ Appendix B: The University’s Student Code of Conduct (“Code”). The Code can also be found at <http://studentaffairs.osu.edu/csc/> (last visited November 10, 2014).

⁷ Appendix B.

⁸ Ohio law defines hazing as “doing any act or coercing another, including the victim, to do any act of initiation into any student or other organization that causes or creates a substantial risk of causing mental or physical harm to any person,” and creates both criminal and civil liability for hazing. Ohio Rev Code §§ 2903.31, 2903.31(B), (C); 2307.44.

⁹ The Band’s *Standards of Behavior* were created in 2014 and require the Band members to explicitly agree to a certain standard of behavior, including complying with the law, being a positive role model, and refraining from hazing, harassment, or abusive conduct, among other things. The Standards of behavior were written to clarify the Band’s Policies and Procedures (“PnPs”). During its interviews, the Task Force noted the confusion expressed by Band members regarding the application of the PnPs to what they perceived as “personal” time. The *Standards of Behavior* now make clear that there is no distinction between the standards which apply to on- and off-campus behavior.

III. The Work & Methodology

A. Scope

In its review, the Task Force focused on the previous five years, 2009 through 2014. This five-year timeframe was chosen both because it encompasses a change in leadership between Band Directors, and five years is the maximum amount of time (with a few exceptions) that a student can be a member of the Band.

The Task Force gathered information for its review through four methods:

- Interviews (in-person and by telephone or Skype) with current and former Band members, staff, and other interested parties
- Analysis of an independent, online, qualitative and quantitative survey
- Document review
- Correspondence from interested parties

B. Interviews

1. Outreach

To learn about the Band and its culture, the Task Force interviewed current and former members of the Band, its staff, and volunteers for the Band. Additionally, the Task Force met with key University administrators, faculty, and staff who interact with the Band to learn more about the administrative oversight of the Band. Interviews of staff and volunteers were initiated by the Task Force and were conducted throughout August, September, October, and November in-person and by phone.

The Task Force also proactively contacted 255 current members of the Band and the Band's student staff twice via email to invite them to speak with the Task Force about their experience in the Band. The Associate Director of the Band, Dr. Christopher Hoch, announced the email and its purpose prior to Band practice and these communications from the Task Force led to 51 interviews with 48 current Band members during the course of the Task Force's review.

The Task Force also created a website¹⁰ to explain the Task Force's goals and to provide interested parties an opportunity to initiate contact with the Task Force through either: (1) a direct link to the Task Force's email address, which allowed the party to send an email directly to the Task Force from their email address; and (2) an online form¹¹ that individuals could fill out and submit anonymously if desired.

Unless an individual expressly asked not to be contacted, the Task Force responded via email or telephone to all individuals who contacted the Task Force through its website. If the person contacted desired to be interviewed, the Task Force nearly always did so, even if that person's connection to the Band fell

¹⁰ This website is located at <http://www.osu.edu/bandculturetaskforce> (last visited November 10, 2014).

¹¹ The online form can be found at <https://www.osu.edu/bctfform.php> (last visited November 10, 2014).

outside the five-year scope of the review. The Task Force used those interviews for historical reference for some traditions and influences on the Band and to solicit recommendations for any necessary changes to the Band's culture.

2. Interviews

The Task Force interviewed a total of 185 individuals.¹² These individuals represented: current and former Band members and staff from the time period of 2009 through 2014;¹³ Band alumni that pre-dated 2014; current and former University administrators, faculty, and staff; and others, including parents, donors, stadium personnel, bus drivers, cheerleaders, neighbors of Band members, campus police, and Band volunteers.

These interviews took place in person whenever possible, and by telephone or Skype if the persons interviewed were located in another state or country. The in-person interviews lasted, on average, between 60 to 90 minutes, while the phone interviews lasted between 30 minutes to over 60 minutes.

All of the interviewees had the opportunity to provide the Task Force with information about the Band and the University, as well as recommendations about ways to improve the Band's culture or its relationship with the University. All of the interviewees were told that they could follow-up with the Task Force at any time if they had additional thoughts or recommendations.

The Task Force extended an invitation to former Band Director Jon Waters ("Mr. Waters") to be interviewed by the Task Force or to submit a written statement; Mr. Waters chose to submit a written statement.¹⁴

C. Independent Online Survey

The Task Force engaged ModernThink, LLC ("ModernThink"), a consulting firm that specializes in assisting higher education institutions with assessing and improving their culture and climate,¹⁵ to design, administer, and analyze an online survey to be distributed to Band members who were active in the Band from 2009 through 2014.¹⁶

¹² The Task Force conducted 183 total interviews; some interviews contained more than one interviewee. Additionally, although not included within the Task Force's count, the Task Force had ongoing discussions with a number of persons interviewed throughout the course of the review.

¹³ The Task Force interviewed a total of 104 former members of the Band, with 73 of those interviews held with members of the Band from 2009 to present.

¹⁴ Appendix C: Statement by Jonathan Waters to the OSU Marching Band Task Force and accompanying email from David Axelrod, October 31, 2014.

¹⁵ Appendix D: ModernThink: The Ohio State University Marching Band Survey Results Executive Summary, November 10, 2014.

¹⁶ The Task Force engaged ModernThink after conducting a proposal process with four consulting firms, all of whom had experience in conducting cultural surveys at university campuses, and in analyzing the Title IX implications, if any, of the responses to those surveys. The proposal process included an assessment of each firm's proposed work plan, their willingness to work within the Task Force's time frame and adhere to strict deadlines, and the total cost to administer and analyze the survey. ModernThink was adjudged by the Task Force to have the best combination of work plan, timing, and cost.

Prior to administering the survey to the Band members, the questions were reviewed to ensure measurability, testability, and compliance with Title IX.

The online survey as administered was between 88 and 146 questions (depending on how survey takers answered certain questions), which included nine demographic questions (such as year in Band, gender, and sexual orientation); twelve questions regarding perceptions of the Band's climate; ten questions regarding experiencing incidents involving sexual harassment, sexism, heterosexism,¹⁷ or inappropriate touching; seven questions each regarding perception of the Band's directors and the squad leaders; fourteen questions regarding perceptions of alcohol use, sexual harassment, and/or sexual assault within the Band and at the University; twelve to fifteen questions regarding training the Band had received and University resources available to the Band (additional questions populated the survey if the survey taker indicated he or she had received training); ten questions regarding sexual assault and sexual harassment reporting; five to twelve questions regarding actual incidents of sexual harassment or assault (additional questions populated the survey if the survey taker indicated he or she had experienced an incident of non-consensual touching); and three open-response questions about the positives and negatives of the Band's culture and any recommendations to improve the Band's culture.

Prior to sending out the survey, the Task Force requested that Dr. Christopher Hoch, the Associate Director of the Band alert the current Band members that an online survey was being sent to their email addresses so that the Band members understood the survey invitation was not spam mail. The actual survey was distributed on August 27, 2014, by ModernThink to 852 current and former Band members.¹⁸ The survey was sent from the Task Force's email address, contained a link to the online survey along with a unique username and password, and provided information on how to contact ModernThink if the survey taker experienced any technical difficulties.¹⁹ The Band members were given two weeks to respond to the survey with reminder emails sent to the Band members on September 3, 7, and 9, 2014.²⁰ The survey closed on September 10, 2014.²¹

Of the 852 surveys that were sent, 278 unique individuals completed some or all of the survey.²² The response rate of the survey was thus 32.7% (278 individuals out of 852 completed some or all of the survey). Of the 278 respondents, approximately 65 to 74% were male and 23 to 33% were female.²³

¹⁷ Heterosexism is discrimination or prejudice by heterosexuals against homosexuals. <http://www.merriam-webster.com/dictionary/heterosexism> (last visited November 12, 2014).

¹⁸ The Task Force identified the email addresses of the 852 current and former Band members by utilizing a combination of Marching Band and Athletic Band class rosters from 2009-2014 and publicly-available University directory information.

¹⁹ Appendix E: ModernThink Survey Invitation August 27, 2014.

²⁰ Appendix F: ModernThink Survey Invitation Reminders, September 3, 7, 9, 2014.

²¹ Appendix G: ModernThink Ohio State University Marching Band Culture Survey.

²² Appendix H: ModernThink Student Comments Report by Gender.

²³ The percentages of males and females is approximate because some survey takers declined to identify their gender.

D. Document Review

During the course of its review, the Task Force reviewed thousands of documents relevant to the Band and its Directors and members. Documents reviewed include:

- University and Band policies
- Band-related documents from the Director’s office
- Selected faculty and staff emails
- Publicly-available documents on websites and social media programs
- Documents submitted to the Task Force by interviewees
- Videos and other materials produced by the Band

EY assisted the Task Force in collecting, sorting, hosting, and initially reviewing many of the electronic documents that the Task Force accumulated during its review.

E. Correspondence

The Task Force received more than 200 letters independent of its proactive outreach and responded to every individual who sent a letter. When requested, the Task Force interviewed nearly all individuals about their experiences with the Band, regardless of whether that person had a connection to the Band within the time period of 2009 until 2014, again, to provide a clear understanding of historical context when evaluating the current culture of the Band.

F. Outside Influences

Beginning with the University’s termination of the employment of Mr. Waters, there has been substantial media coverage of issues regarding the Band, including the University’s Title IX Report and this Task Force’s investigation. The firing of Mr. Waters led to widespread anger among many current and former Band members, their families, and the public; Mr. Waters retaining an attorney who made many comments to the media; and people organizing a sophisticated campaign for his rehiring.

During the Task Force’s review, it became clear that the leadership and some members of the TBDBITL (“The Best Damn Band In The Land”) Alumni Club (“TBDBITL”), the Band’s alumni organization, attempted to directly influence the Task Force’s findings through multiple communications with both its membership and with current Band members. These communications attempted to control the response rate and the character of the information supplied in interviews conducted by the Task Force and through the online survey conducted by ModernThink.

For example, on or about August 12, 2014, TBDBITL distributed a “guide” to alumni Band members who were interested in sending the Task Force letters. This “guide” was sent to TBDBITL’s email mailing list and posted online.²⁴ The “guide” suggested that

²⁴ Appendix I: August 12, 2014 TBDBITL Message and Guide “To Those Who Wish to Write Letters to Betty Montgomery.” The “guide” can also be located at the following website: https://d3n8a8pro7vhmx.cloudfront.net/westandwithjonwaters/pages/21/attachments/original/1407711815/Waters_-_guide_to_writing_letters_to_BMont_140810.pdf?1407711815.

parties request to be interviewed in person, tell the Task Force about efforts that Mr. Waters employed to improve the Band’s culture, and copy the letter to Mr. Waters’ attorney, David F. Axelrod. The Task Force received letters that followed the Guide’s instructions.

On August 26, 2014, TBDBITL sent its members an email with “talking points” regarding the University’s firing of Mr. Waters, including saying that the Title IX Report was an “attack” and “grossly distorts” Band culture; that Mr. Waters was the solution, not the problem, to any Band culture issue; and that the University’s conduct was “unconscionable.”²⁵ These talking points showed up repeatedly in interviews, as well as in the open-ended responses that Band members provided in the online survey.²⁶

During the administration of the survey, the Task Force learned that TBDBITL members were utilizing Facebook messages and status updates to “spread the word” to not complete the “poorly worded/confusing/leading survey” until Mr. Waters’ legal team had reviewed the survey.²⁷

On September 25, 2014, TBDBITL sent its members an email regarding “Things You Need to Know,” which described the Task Force’s forthcoming report as “obsolete” and a “feeble attempt to conduct an assessment of the [B]and’s culture.”²⁸

It is impossible to quantify the potential effect that both the media saturation and TBDBITL’s attempts to influence both alumni and current Band members had on both (1) who chose to speak to the Task Force or complete the online survey, and (2) the choice of message imparted by those who did volunteer to provide information to the Task Force. As ModernThink noted in its Executive Summary, “it is noteworthy that some of the verbatim comments in the survey echoed topics and even language provided” by TBDBITL.²⁹

IV. Cultural Assessment

In seeking to understand the Band’s culture, and to recommend appropriate changes, the Task Force conducted extensive interviews with an exceptionally wide variety of persons, including current and former members of the Band, University faculty and staff, alumni and donors, Band volunteers, Band parents, Band members’ neighbors, representatives from the Offices of Student Life, Student Conduct, and University Compliance and Integrity.

The success of the Band is undeniable. The Band, in many ways, has a culture of excellence, hard work, and esprit de corps, with many positive traditions that emphasize meritocracy, fair competition, student leadership, and community service, as well as a feeling of “belonging” that can be hard to achieve at a large university. Its commitment to excellence is apparent through its

²⁵ Appendix J: August 26, 2014 TBDBITL – Talking points about the University’s firing of Jon Waters.

²⁶ The Task Force also learned that a state legislator was contacting people regarding the firing of Mr. Waters and requesting that they keep applying pressure, stating, “if it goes away, they win.” This message was shared at least once via status update on Facebook.

²⁷ Appendix K: Screenshot of TBDBITL Member’s Facebook post.

²⁸ Appendix L: September 25, 2015 TBDBITL – President’s Update.

²⁹ Appendix D.

nationally-acclaimed halftime shows and other performances. In interviews with current and former members, it is clear that the Band is a true meritocracy. Members undergo a rigorous tryout process and those who succeed have a fundamental respect for one another as musicians and members of an elite team. Being chosen as a member of the Band is an accomplishment of which students should rightfully be proud.

However, part and parcel of the Band's wonderful traditions and eminence is an undercurrent of inappropriate behavior and tradition that has been fueled by a misguided sense of commitment to the past and the insular nature of the Band, which has drifted away from effective University oversight through the years. This undercurrent is inconsistent with the overall excellence and reputation of the Band.

The Task Force recognizes that college campuses are a place where newly-minted adults navigate their way through the collision between the social expectations and norms they have learned from their friends and popular culture and the standard of behavior universities (and the law) expect of their students. Universities have increased their vigilance and expectations of student behavior in the wake of increased enforcement of Title IX and the Clery Act by the federal government,³⁰ as well as national scandals involving hazing and sexual assault.³¹ At the same time, popular culture has appeared to move in the opposite direction, with movies, music, the Internet, and other media directed at young adults often glamorizing alcohol and drug use and abuse, sexuality, and outrageous behavior.

However, those students who try out for the Band, often referred to as "The Pride of the Buckeyes," are choosing to elevate themselves from typical University students to members of an organization that is iconic within the University's culture. The Band serves as an ambassador for the University in recruiting new students and new student-athletes, fundraising, and as an ambassador to the community at large with performances that have gained national acclaim. In the past two years, the Band's creative halftime performances have increased its visibility dramatically, with YouTube videos of its performances receiving millions of hits. The world is, quite literally, watching the Band.

As such, the Band has a responsibility to act, both on and off the field, as if the world is watching because with increased attention and acclaim also comes increased scrutiny and responsibility.

³⁰ In 2013, the DOE almost tripled the number of fines it issued to colleges for Clery Act violations. <http://www.mondaq.com/unitedstates/x/289764/Education/US+Department+Of+Education+Levies+More+Fines+For+Clery+Act+Violations> (last visited November 11, 2014). In January 2014, the President of the United States organized a White House Task Force on how to prevent sexual assaults on campus, which includes a discussion of both Title IX and the Clery Act. http://www.whitehouse.gov/sites/default/files/docs/report_0.pdf (last visited November 11, 2014). In May 2014, the DOE released a list of 55 colleges under investigation for violations of federal law over the handling of sexual violence and harassment complaints. <http://www.ed.gov/news/press-releases/us-department-education-releases-list-higher-education-institutions-open-title-i> (last visited November 11, 2014).

³¹ In 2011, Florida A&M's drum major died after being hit repeatedly by his fellow band members during a hazing ritual on board a band Bus; the "ringleader" of the hazing ritual was subsequently convicted of manslaughter. <http://www.nytimes.com/2014/11/01/us/florida-am-band-member-is-convicted-in-hazing-death.html> (last visited November 11, 2014). In 2014, Florida State University's star quarterback, Jameis Winston, was accused of raping a freshman female student at an off-campus party. <http://www.nytimes.com/interactive/2014/04/16/sports/errors-in-inquiry-on-rape-allegations-against-fsu-jameis-winston.html> (last visited November 11, 2014). Although the Florida state attorneys declined to file charges in the case, Winston's university conduct hearing is pending.

A. The History & Structure of the Band³²

1. History of the Band

Founded in 1878, The Ohio State University's Marching Band has a rich and storied history, with its structure and traditions rooted in its military origin as a drum corps that provided marching music for ROTC military exercises. In 1934, the Band transformed into an all-brass and percussion ensemble. The Band eventually shed its military affiliation, became co-educational in 1974 with the enactment of Title IX, and at 225 members, is today the world's largest all-brass and percussion band.

2. Structure of the Band

The 225 marching members of the Band are organized into 16 rows of brass and percussion instrumentation. In keeping with the tradition of military rank, the Band Director wears a uniform with four stripes on its sleeves, the Associate Director has three stripes, and the Assistant Director has two stripes.

Only 192 members march during game day performances. These 192 members are the "regulars." The remaining 33 members are "alternates." Alternates do not march in the pre-game or halftime shows with the Band on game day.

Band members may be in the Band for up to five years (with few exceptions).³³

a) Row Structure

Each of the Band's 16 rows has 14 members (except for one percussion row, which has 15 members),³⁴ two of whom are Squad Leaders (generally, one Squad Leader and one Assistant Squad Leader).³⁵ The rest

OSU Marching Band Row Structure

A-Row & X-Row
Eb Cornets (Efferers) & Trumpets

B-Row & T-Row
Trumpets

C-Row
Flugelhorns

D-Row
Drum Majors

E-Row & R-Row
Mellophones

F-Row & Q-Row
Trombones

H-Row & M-Row
Baritones

I-Row
Snare Drums

J-Row
Quads, Bass Drums & Cymbals

K-Row & L-Row
Sousaphones

S-Row
Trumpets & Flugelhorns

The two rows that have the same instrumentation are considered "sister rows."

Source:
<https://osumarchingband.com/osumb/current-roster/> (last visited 11/12/2014).

³² <https://osumarchingband.com/> and *Script Ohio: Tradition of Excellence* (<http://thebuckeyebattlecry.com/tbdbitl/a-sneak-preview-of-script-ohio-a-tradition-of-excellence.html>) (both last visited November 11, 2014).

³³ The Band currently has 27 fifth-year members, including drum majors and student staff.

³⁴ <http://osumarchingband.com/> (last visited November 11, 2014).

³⁵ Each of the 16 rows has a Squad Leader and an Assistant Squad Leader with the exception of J Row, which has one Squad Leader and two Assistant Squad Leaders.

of row membership is made up of returning Band members and first-year members.³⁶

Squad Leaders are responsible for the day-to-day management of the rows. They teach marching fundamentals and drills, conduct music checks, help alternates improve, provide individual help when needed, serve as problem solvers both within their row and within the Band as a whole, and lead their rows on the field. Squad Leaders receive individual training from the Directors on leadership, policies, and the fundamentals of marching during the summer. As leaders, Squad Leaders are expected to be role models for all members of the Band, and are expected to speak up when they see or hear inappropriate behavior or activities that could harm the Band.³⁷

Members become Squad Leaders by being nominated by their fellow row members toward the end of the Marching Band season. Typically four or five members receiving the highest number of nominations in their row are then interviewed by the Band Directors in March. The Band Directors ultimately select the 33 Squad Leaders based on a combination of the nominees' music scores, marching scores, and personal qualities and announce their selections in April. Squad Leaders are assumed to be the de-facto leaders following this announcement, but are not officially Squad Leaders until trying out and making the Band in August. Squad Leaders are re-nominated and re-chosen every year.

3. Chain-of-Command

Although the Band has shed its military affiliation, it still retains a “chain-of-command” structure not unlike that of the United States Armed Forces. At the bottom of the structure are the first-year Band members. Further up the chain-of-command are the veteran Band members, whom first-year members look to for guidance and behavioral expectations. Both first-year and veteran Band members are supervised by Squad Leaders, to whom all members are generally expected to report issues or concerns.³⁸ The Squad Leaders, in turn, report to the Band's directing staff. This chain-of-command is explained in detail to members as part of Fesler Night (see the Band Traditions section of the Cultural Assessment).

The directing staff has its own reporting and supervisory structure. Generally, the entire directing staff is supervised by the Director of the Band, who is in turn supervised by the Director of the School of Music. The directing staff's reporting and supervisory structure will be discussed in more detail in the Administrative Review section of this report.

³⁶ First-year members of the Band have long been known as “rookies.” When Mr. Waters became director in 2012, he eliminated the use of the word “rookie” and substituted the term “first-year member.”

³⁷ Appendix M: Squad Leader Responsibilities On & Off the Field, 2012 season.

³⁸ Appendix N: The Ohio State University Marching Band Statement of Policies & Procedures Autumn Semester, 2013.

4. Profile of the Band Members

Marching Band is a graded academic class offered through the School of Music (Course number 2205.01, 2 credit hours).³⁹ Students in the Band must enroll in the class as part of the University's course enrollment process.⁴⁰

Over the past five years, more than 93% of the Band members have attained an "A" average in the Band class. Despite the time commitments to the Band, members also perform well in the rest of their academic life. For Autumn 2013, the cumulative grade point average for degree-seeking undergraduate members of the Band was 3.160, and the six-year graduation rate for new first-year members beginning in Autumn of 2008 was 91.2%.⁴¹

Members pursue a wide array of academic disciplines including music education, music performance, industrial and systems engineering, neuroscience, aero and astronautical engineering, accounting, chemistry, computer engineering, zoology, criminology, and mathematics.

In interviews conducted by the Task Force, both current and veteran members overwhelmingly indicated that their decision to attend Ohio State was based on a desire to be in the Marching Band, a desire that many interviewees had held since childhood.⁴² As a result, many have already developed a sense of pride, commitment, and loyalty to the Band even prior to becoming a member. Once in the Band, members often go to great lengths to maximize their time in the Band, with a number of Band members returning to the University even after graduating just to spend one more season with the Marching Band.

³⁹ While Marching Band is listed in the course catalog as a 2-credit course, flexible credit is available for this course. This allows Band members to enroll in the course for anywhere between 0.5 and 2 credits a semester. For the sake of this report, it will be referred to as a 2-credit course.

⁴⁰ If a student is not selected during tryouts, he or she must have the class removed from his or her schedule.

⁴¹ Comparatively, according to the University's Office of Enrollment Services, the average cumulative grade point average for Columbus campus degree-seeking undergraduate students was 3.071 in Autumn of 2013 and the six-year graduation rate for the Columbus campus new first-year cohort beginning in Autumn of 2008 is 83.5%.

⁴² Indeed, one 1982 OSU graduate had always regretted never having tried out for the Band as an undergraduate. She promised herself that after retirement, if possible, she would try out for the Band. Nearly thirty years after graduating from the University, in March of 2010 she began learning to play a trumpet, later switching to a mellophone, her high school band instrument. She went to the summer 2010 Band sessions, twice a week for two to three hours, increasing later to four times a week. Regrettably, she injured her ACL but continued attending the summer session, but she did not try out. After that summer session, she took private music lessons, practiced her music and her marching regularly, and later attended the 2011 summer sessions. In 2011, she tried out for the Band, but did not make it. Encouraged by the Directors to try out again, she continued practicing, attended her third summer session and finally made the band in 2012. She is currently a member of the Band. Her story is included here with her permission.

5. Staffing

The Band is staffed by paid professional staff (Directors and other instructors), student staff, volunteers, and student leaders from within the Band membership (Squad Leaders). The Band's chain-of-command structure, which includes students (Squad Leaders), is intended to foster both a strict sense of hierarchy and leadership in its students. The structure of the Band's staff has remained fairly consistent over the years, with the only substantial changes occurring this year, 2014. Historically, the Band has been staffed by a Director, an Assistant Director, an Associate Director, two to three graduate assistants, 12 to 14 student staff, and a host of volunteers.⁴³ In January 2013, the Band hired a business operations manager.⁴⁴ In 2014, following the termination of Mr. Waters, the Director of Bands and the Associate Director of Bands were assigned to the Band and an Interim Associate Director and Drum Major Instructor were also added to the directing staff. All of the Band directing staff currently serve as central staff for the Band and run the Band like a committee, with an agreed-upon division of labor, rather than a strict hierarchical structure.

a) Staff Duties

1. Director: The Director is responsible for overseeing the Marching Band as well as Pep Bands and Athletic Band.⁴⁵ The Director is in charge of all personnel, policy, budget, and schedule decisions, and is additionally responsible for organizing and maintaining fiscal records and coordinating staff work assignments. The Director is the Band's liaison with the University Athletic Department and other campus organizations. The Director is the primary field conductor for the Band and coordinates pre-game and halftime show planning, as

OSU Marching Band Staff Structure (2009-2013)

Director

Associate Director

Assistant Director

Graduate Assistants (2-3)

Business Operations Manager

Percussion Instructor

Physical Therapist

Student Staff (12-14)

*Interim changes have been made to this structure in 2014.

⁴³ Appendix O: "From Excellence to Eminence: A Proposal for a New Band Staffing Structure," Rick Shaffer, April 14, 2014.

⁴⁴ Appendix O.

⁴⁵ Pep bands are small subsections of the Marching Band that perform at various events during the football season which may or may not involve out-of-town travel. Marching Band members are required to do two Pep Bands per season. Like Marching Band, Athletic Band is a 2-credit course (Course Number 2205.02), although students may enroll in Athletic Band for fewer than 2 credit hours. Athletic Band contains woodwind, brass, and percussion instruments, and unlike Marching Band, is an open enrollment class (there are no tryouts; anyone is welcome to participate). The Athletic Band and Athletic Band pep bands perform at all University sporting events with the exception of football. Both Pep Bands and the Athletic Band fall under the purview of the Director of Bands. <https://osumarchingband.com/athletic/> (last visited 11/11/2014).

well as indoor and outdoor rehearsals. The Director is responsible for music selection for all public performances, is the final authority on all music checks, Pep Band and Athletic Band matters, and issues concerning equipment and absences. The Director supervises all off-campus Band trips, oversees all copyright clearance matters, and coordinates financial awards and Band scholarships.⁴⁶

2. Associate Director: The Associate Director is a secondary field conductor for the Band, assists with indoor and outdoor rehearsals, charts the pre-game and halftime shows, and is in charge of field show timing. The Associate Director also coordinates the Band's recruiting efforts, conducts Pep Bands, and co-directs the Alumni Band. Additionally, the Associate Director assists the Director with administrative tasks when necessary, oversees the Band's website and facility maintenance, and coordinates the instrument room.⁴⁷
3. Assistant Director: The Assistant Director has responsibilities in show writing, music rehearsals, and administration of the Band, as well as directing the Athletic Band. The Assistant Director also teaches undergraduate music education courses. The Task Force is aware that changes were made to this position in 2013.
4. Graduate Assistants: The Graduate Assistants provide a variety of assistance to the Band, including acting as assistant field conductors, assisting with indoor and outdoor rehearsals, conducting and supervising alternates, coordinating the audio/visual managers, assisting with music checks, coordinating music scores for the Band, and assisting with the Athletic Band.⁴⁸ Graduate assistants generally receive a stipend in exchange for their service to the Band.
5. Business Operations Manager: The business operations manager handles all fiscal and budgetary matters for the Band, coordinates all travel and logistics for both the Band and the cheer team (when it travels with the Band), and oversees the operations side of the Band, including supervising the Student Staff. The business operations manager also coordinates the media and public relations requests received by the Band.⁴⁹
6. Percussion Instructor: The percussion instructor is a paid position with the Band. The percussion instructor is responsible for all personnel decisions in the percussion section of the Band and for overseeing and writing the percussion parts for all arrangements. The percussion instructor is additionally responsible for all percussion equipment and

⁴⁶ Appendix N, O.
⁴⁷ Appendix N.
⁴⁸ Appendix N.
⁴⁹ Appendix O.

repairs. He or she also acts as an assistant field conductor and assists in Band rehearsals.⁵⁰

7. Physical Therapist: Historically, the Band has had a volunteer physical therapist who ensures that the Band members are physically able to perform, aids the Band members in recuperating from a variety of injuries, and helps to ensure that the Band stays well-hydrated and avoids heat exhaustion.
8. Student Staff: There are roughly 12 to 14 student staff members who perform a large portion of the administrative work of the Band, including special events, communications, and office duties such as answering the phone lines and Band email. Key responsibilities of the Student Staff include:
 - Assisting in the Band Instrument Office, which is located in the Band Center and contains approximately 500 musical instruments with a value of close to \$2 million
 - Assisting in the Uniform Office, which contains more than 5,000 individual items with a value of more than \$500,000
 - Providing secretarial support to the directing staff
 - Assisting with Band equipment and audio/visual operations
 - Assisting with Band merchandise and recording sales
 - Assisting with the maintenance of the Band's music and film library

The Student Staff are appointed by the Band Directing Staff and are considered full, non-performing members of the Band. The student staff members receive up to 2 credits for Music 2205.01 for their work during normal rehearsal times and they receive payment for their time spent before and after rehearsals to complete their duties.⁵¹

9. Volunteers: Volunteers perform tasks or duties that are not done by the directing or student staff. Volunteers serve as, among other things, the Band announcer, the Band photographers, equipment and truck drivers, and chaperones on some of the buses when the Band travels to away games and performances.

B. Making the Band

1. Band Tryouts

Becoming a member of the Band requires an extraordinary amount of time and practice that goes far beyond the two days of official tryouts. No prospective member, whether veteran or first year, is guaranteed a spot with the Band. The Band requires each member to tryout every year, and the Directors have

⁵⁰ Appendix N.
⁵¹ Appendix N, O.

occasionally eliminated returning veteran members when other candidates have performed better.

Throughout June, July, and August, the Band holds “Summer Sessions.” Most, if not all, veteran Band members as well as prospective members attend these optional sessions, where they practice the fundamentals they will need in order to become a member of the Band. In interviews with the Task Force, numerous current Band members reported that the veteran Band members were supportive during these Summer Sessions, providing guidance and encouragement to first-year candidates.

After Summer Sessions conclude, the Band holds one day of Squad Leader tryouts followed by two “Candidate Days” specifically for first-year Band candidates. The Squad Leader tryouts consist of one day where the directing staff observes the Squad Leaders to ensure they have sufficient musical and marching skills to lead the Band on the field. Candidate Days are typically held the day after Squad Leader tryouts and two days before full tryouts, and highlight the lessons taught during Summer Sessions in two eight-hour practices.

Full tryouts begin immediately following the Candidate Days. This two-day process includes all first-year candidates who make it through the Candidate Days, and all returning Band members. Once tryouts begin, there are approximately 400 candidates trying out for one of 225 open slots in the Band (or, 192 open slots, accounting for the 33 Squad Leaders who have already been chosen).⁵²

Prospective Drum Majors audition before a group of Directors, alumni, and former drum majors during the spring before the next marching Band season. One Drum Major and one Assistant Drum Major are selected on the basis of their “ramp entrance” and baton skills, along with several additional “drum majors in-training.” The “ramp entrance” is the traditional home stadium entrance of the Band; the Band enters Ohio Stadium via a narrow concrete entrance that leads from the concourse down to the football field.

Based upon interviews with both current and past Band members as well as staff, selection for the Band is clearly a rigorous and objective process. As a direct result of this strongly competitive process, meritocracy is consistently cited by members and staff who have been interviewed as one of the key defining features of the Band—earning a spot in the Band earns one the respect of all Band members, both new and veteran. This rigorous process and the sheer amount of time spent with one another also serves to create camaraderie among the members, who consistently refer to other Band members as “family.”

⁵²

In Autumn 2014, 382 candidates competed for the open Band slots.

2. Band Member Workload

In recent years, once the Band is constituted but before Autumn Term classes commence, Band members practice two to three times per day for a total of six to eight hours.⁵³

Once school begins, Band class is scheduled—both drills and music practice—for two hours a day, five days a week. On vacation days, Band members are often scheduled to practice for three to four hours per day. In addition to Band class, Band members must spend personal time practicing and memorizing music and drill routines. Depending on schedules and practices, Band members may have two to three weeks of practice before the first home game, and once school has started, they often have less than a week to learn the music and marching routines before the next performance.

3. Ensuring Excellence

a) *Band Challenges*

On Mondays, alternates are required to challenge a regular who plays the same instrument and part in the Band for the right to march at the end of the week. The alternate's Squad Leaders judge the marching ability and musicality of the alternate and the challenged Band member side-by-side; if the competition between the two is too close to call, a Director makes the final decision.

If an alternate wins the position, then the alternate keeps that position every week, presuming he or she can withstand challenges from other Band members. Additionally, if any one of the 192 Band members scheduled to march in that week's game day show falls sick, gets injured, or is suspended for any reason, an alternate must be available to take over at a moment's notice.

b) *Music Checks*

On most Fridays, Squad Leaders conduct a "music check" of the entire row to ensure that each member of the row has learned the music performances. If one of the regular Band members has, for any reason, failed to properly memorize the music to be performed, or fails to adequately perform the music, then the member loses his or her spot to an alternate the following week. If an alternate fails a music check, he or she loses the right to challenge for a regular position the next week. Band members who fail music checks during the regular season are subject to having Band grades lowered one-half of a letter, and if they fail three music checks during a marching Band season they will be dismissed from the Band. Squad leaders are "checked" by the directing staff.

⁵³ Three-a-day practices began after the University's change from quarters to semesters due to the decreased amount of time the Band has between tryouts and the commencement of Autumn Semester.

c) *Uniform and Instrument Checks*

On home game days, all Band members have their uniform and instrument inspected by their Squad Leader as part of a “Uniform Check” to ensure that every member of the Band looks professional and polished.⁵⁴ Prior to game days, select rows meet together in the stadium to polish their instruments as a group, thereby ensuring uniformity. Any Band member who fails a uniform check is subject to a penalty drill, which is either a 50-yard or 100-yard extra marching drill given at practice. Multiple failed uniform checks will result in members having a lowered Band grade.

C. Band Performances & Scheduling

1. Home Games

On home game days, Band members arrive at the stadium at least six hours before the game to ensure enough time for uniform and instrument inspections and rehearsal time.⁵⁵ The Band then conducts a rehearsal, both music and drills, several hours before the game, followed by a “Skull Session” at St. John Arena. Skull Sessions originated as a final run through of the Band’s music prior to game day. The Skull Session has since shifted into a full-blown pre-game performance by the Band. In addition to the Band’s performance, an Ohio high school band attends and plays for the assembled crowd.⁵⁶ If the opposing team’s band has travelled to the game, it also has the option of performing at the Skull Session. In 2013, the Band performed at seven home games.

2. Away Games

Generally, the Band travels to one away game, plus the University of Michigan game if it is an away game. On away game days, the Band travels together by bus to the away venue and arrives at the venue early enough to conduct the mandatory uniform and instrument inspections, as well as the rehearsal. Depending on how far away the game is located, the Band may travel the day of the game or the day prior. Typically, the Band performs a local concert for alumni whenever the Band travels to an away game.

At the end of the season, if the football team earns a spot in a championship game or at a Bowl game, the Band will travel to those game locations as well. For example, in December 2013, the Band traveled to the Big-10 Championship Game in Indianapolis, Indiana, and in January 2014, to the Orange Bowl in Miami, Florida.

It should be noted that prior to 2013, the Band typically traveled to only one or two away games in a given year. In 2013, the Band increased its travel schedule

⁵⁴ The uniform and instrument check for Squad Leaders is given by the Band directing staff.

⁵⁵ The percussion rows, J-Row and I-Row, report one hour prior to the full Band’s report time to practice the row’s entrance down the Stadium Ramp. *Script Ohio: Tradition of Excellence*.

⁵⁶ An Ohio high school band is not invited to play on Alumni Band Day.

after an infusion of new money in its budget. The Band ultimately traveled to four away games during the 2013 regular season, which included traveling across the country to California, where the Band not only performed a show at an away game at the University of California, Berkeley, but attended a fundraiser in Los Angeles.

3. Professional Football Games

Traditionally, the Band performs at one professional football game each season. Historically, the Band has alternated between the Cincinnati Bengals and the Cleveland Browns. Last year, the Band performed at a Cincinnati Bengals game in September 2013.

4. Pep Bands

In addition to practice time and game day preparations, Band members spend additional time together at pep band events, parades, and community service events. Pep bands are sub-sections of the Band, varying in size between 12 and 30 members, that assemble to play for local businesses, alumni, or events (both internal University events or events outside the University) in order to increase spirit and excitement regarding the University and the Band. Band members are required to participate in a minimum of two pep Bands during the football season.

In addition to pep bands, Band members can choose to join the University's Athletic Band in the Spring semester, which is also a 2-credit class. The Athletic Band performs at least once a year at most University sporting events other than football, and also performs the halftime show at the spring football game. Athletic Band members also participate in pep bands, varying in size.

5. Internal and External University Appearances

The Band participates in numerous social events, both on the University's campus and in the Ohio community at large. In the past two years, the number of Band appearances has increased dramatically and includes events that can draw upwards of 400 or more people. Additionally, the Band serves the Office of the President and the Athletic Department as an ambassador to external audiences and a recruitment tool for prospective students, and the Office of Advancement as a component of the University's fundraising efforts.

6. Band Community Service

The number of community service events that the Band attends has increased over the last two years, as Mr. Waters stressed the Band's commitment to the community during his tenure as Director. The Band's community service events take a variety of forms, and can include working with a local marching band, performing a special game-day performance, performing at a fundraiser, or simply volunteering its time. In the past few years, the Band has worked with the Ohio State School for the Blind Marching Band, performed at children's hospitals,

given terminal cancer patients the opportunity to be a part of the Band during rehearsals, and volunteered their time for blood drives.⁵⁷

D. Training

For Band members as a whole, there has not been a history of regular training on Title IX, alcohol and drug use and abuse, hazing, or sexual harassment and sexual assault. Rather, most of the training provided to the Band has either occurred after the Band experienced an adverse incident, or at the behest of another department in the University.⁵⁸

Training within the Band has historically been limited to reading through the Band's Policies and Procedures ("PnPs") with the Band members during the first week of practice. However, many Band members indicated to the Task Force that the PnPs were so long that they were not aware of everything that was in them. In June 2010, Mr. Waters did request a 15-minute presentation from the Office of Student Life for the Squad Leaders on the University's alcohol and hazing policy after an incident in which a Band member had to be taken to the hospital with alcohol poisoning. According to Student Life, however, this presentation normally takes approximately one hour.

Band members complained to the Task Force, both in their interviews and through the online survey, that the Band did not receive consistent training and the University failed in reaching out to the Band and its Directors to provide this training. However, the responsibility of organizing and administering appropriate training at the University level typically falls on the Director of any given program, not on the University. Regardless, it was clear from the documentary evidence the Task Force reviewed that the University did reach out to Mr. Waters on numerous occasions to try to schedule training for the Band with varying results.

For example, in late October/early November 2013, the University's Title IX Compliance Officer reached out repeatedly to Mr. Waters to schedule a presentation on alcohol use and abuse and Title IX after a sexual assault took place between two Band members in which both the accused and the victim drank alcohol to the point of "blacking out." The training was originally scheduled to take place on November 4, 2013, but Mr. Waters rescheduled it on a few occasions, and it did not take place until November 20, 2013.

As another example, in January 22, 2014, the Office of University Compliance and Integrity and the Student Wellness Center organized a one-and-a-half hour sexual harassment/violence education and prevention session for student athletes and requested that the Athletics Department urge both the Marching Band and the Athletic Band to

⁵⁷ Mr. Waters addressed community service as part of his written statement to the Task Force. The statement is included in Appendix C.

⁵⁸ Numerous Band members stated during their interviews that the Directors of the Band were the ones who obtained training resources on behalf of the Band. However, those statements are contradicted by the documentary evidence that the Task Force reviewed, which demonstrated that with one exception, other University departments (including Student Life and Athletics) were the ones to request that the Band receive training, not the Directors. Appendix P: January 10, 2014 email re Sexual Harassment/Violence Education Session – January 22, 2014.

attend.⁵⁹ After receiving the request from Athletics, Mr. Waters made the training mandatory for all Athletic Band members, but only strongly suggested the training for Marching Band members.⁶⁰

In April 2014, Student Life reached out to Mr. Waters to coordinate a training schedule for the Band in 2014-2015; Student Life indicated that it never received a response from Mr. Waters.

The only form of semi-regular training that the Band received was Squad Leader training, which has been held yearly since at least 2011. In June of each year, the Squad Leaders attend a “Squad Leader Retreat,” where the Directors discuss attitude, leadership, marching fundamentals, recruiting, and goal-setting with the Squad Leaders. The Directors would also discuss the culture of the Band and the PnPs with the Squad Leaders.⁶¹

E. Band Traditions

The Band has many positive traditions that emphasize meritocracy, fair competition, student leadership, and community service, as well as a feeling of “belonging.” Many traditions—Script Ohio and Skull Sessions at St. John’s Arena, for example—extend beyond the Band to the community at large.

The Band also has traditions that are more “internal” and shared only among Band members and, in some cases, only among specific rows. Many of these traditions are wholly positive, and some are innocuous and silly.

Regrettably, the Task Force also learned of other traditions, both row traditions and “Band-wide” traditions that in part or in whole are inappropriate, offensive, and in some cases, violate Band and University policy. These traditions (or elements thereof) detract from the overall excellence of the Band.

Although Band members, when interviewed, described or admitted that there were traditions and behaviors within the Band that were sometimes sexist, racist, homophobic, or otherwise offensive, virtually none of the current Band members felt that the environment of the Band was in any way hostile or harassing to women, minorities, or gays. Indeed, most current Band members feel quite the opposite: the Band is an organization that cares solely about musical talent, regardless of gender, race, national origin, or sexual orientation.

A significant number of Band members, however, did raise concerns about the traditions in the Band involving alcohol use. A minority of Band members also raised issues with

⁵⁹ Appendix P.

⁶⁰ A female athletic Band student advised Mr. Waters that during the training, male marching Band members, including one Squad Leader, were posting on Twitter inappropriate and sexist comments such as “Just kick the women out of Band” during the training with the hashtag “#humpdayharassment.” It is unknown if Mr. Waters took any action regarding the student’s complaint. Appendix Q: Screenshot of Twitter feed for #humpdayharassment.

⁶¹ Appendix R: The Ohio State University Marching Band Squad Leader Retreat Agendas 2011, 2012, and 2014. The Task Force could not locate an agenda for 2013.

certain hazing practices of the Band that made them feel unwelcome and unsure of whether they wanted to participate in the Band.

In reviewing Band traditions, the Task Force noted that many of them were entirely positive, or mostly positive but for certain negative elements of the tradition. It did find vestigial traditions, however, that are unacceptable.

1. Ramp Entrance

The Band's "ramp entrance"—its energetic entrance down the concrete ramp into the stadium prior to every home football game that remains virtually unchanged since it was first executed in 1928—is a demonstration of fast-paced precision and sets a tone of game day excitement as the crowd cheers the Band onto the field. With approximately 20 minutes left on the play clock prior to kick-off, the Band is introduced (often as "the pride of the Buckeyes") and the percussionists descend the ramp, followed by the brass instruments. Once assembled on field, the Band begins to play "Buckeye Battle Cry," and the Drum Major makes his entrance and executes his traditional backbend, touching the feather of his hat to the ground as he is cheered by the crowd. At the chorus, the Band marches down the field.⁶² Many fans time their arrival to the stadium so as not to miss the Band's Ramp Entrance.

2. Script Ohio

Few Band traditions are more visible and beloved than "Script Ohio." The Band first performed Script Ohio in 1936. Script Ohio is a complicated drill in which the Band, led by the Drum Major, "unwinds" in single file from a large block "O" and marches to spell Ohio in script letters. Once the letters have been formed, a sousaphone player is led by the Drum Major to "dot the i." "Dotting the i" is considered to be one of the Band's highest honors, and is reserved for a veteran sousaphone player and, on rare occasions, distinguished alumni and/or celebrities. Non-Band members who have "dotted the i" include John Glenn, Bob Hope, and Jack Nicklaus.

3. Skull Sessions

Skull Sessions originated in 1932 as a pre-game practice session to refresh the Band members' memories of the music so that they could fully concentrate on marching during the game. The Skull Sessions were originally held in the Old Rehearsal Hall, but they quickly became so popular that the Band had to issue tickets. The Skull Sessions were moved to St. John Arena in 1957. Today, the Skull Sessions are open to the public a few hours before kickoff at each home game. Each week, a high school marching band is invited to play at the Skull session, and that band entertains the fans before the OSU Marching Band arrives to perform (except for Homecoming, when the University's Athletic Band is invited to play). Once there, the Band's "cheer groups" perform a song to go

⁶² An example of the Band's ramp entrance can be found at <https://osumarchingband.com/osumb/traditions/> (last visited November 11, 2014).

along with the football team's opponent for that given week. After the cheer group performance, the football team enters the Arena to a rendition of "Fight the Team Across the Field" and a senior football player and the head football coach speak to the Band and fans. Upon the departure of the football team to Ohio Stadium, the Band plays "Hang on Sloopy" for the crowd.

4. Carmen Ohio

"Carmen Ohio," the University's Alma Mater, was written in 1903 and is the oldest song still in use at the University. "Carmen Ohio" literally means "Ohio Song." "Carmen Ohio" is performed repeatedly on game days: at the Skull Session preceding the game, just before kickoff during the pre-game show, and then again after the game while the football team locks their arms together and faces the Band. Band members also sing "Carmen Ohio" on the bus when they return from away game trips.

5. Hang on Sloopy

"Hang on Sloopy" was first performed by the Band in 1965, and is traditionally played during the break between the third and fourth quarters of the football game. In 1985, the Ohio General Assembly designated "Hang on Sloopy" as the official rock song of the State of Ohio.

6. Make the Band Night

The final day of tryouts typically ends around 5 p.m., and prospective Band members are dismissed and instructed to return at approximately 9 p.m. During this time, the Directors deliberate over the candidates' performances and scores inside the stadium's Band center. Around 9 p.m., the candidates congregate outside the football stadium for what is known as "Make the Band Night."

After the Directors conclude deliberations, the Band candidates are called into the Band's practice room, where the Director calls out the candidates who have made the Band by row and position, beginning with A-1. During this process, the candidates often hold hands within their rows as a sign of solidarity and support. After all the names have been called, those who do not make the Band are asked to leave the practice room and gather in one of the smaller rooms in the Band Center. There, one of the Directors thanks them for their time and encourages them to try out again the next year.⁶³ Many who were interviewed by the Task Force indicated that the Squad Leaders and Directors were personally very supportive of those who did not make the Band on their first attempt.

Those who make the Band are asked to stay in the Band Center. The directing staff congratulates them and provides them with information about practices and upcoming performances. Historically, just before they are excused, Band members are informed that they may observe alcohol consumption, that they

⁶³ Mr. Waters traditionally gave this speech to the unsuccessful candidates because he himself was cut the first-year he tried out as a sousaphone player.

should not feel forced to participate, and that they should report any problems to a Squad Leader or a Director.

The Director then turns the Band members over to the Squad Leaders, who escort their row members to various sections of the stadium for a row meeting. Most rows have a traditional meeting place within the stadium. Once assembled, the Squad Leaders make introductions, typically including members' real names, "rookie names," and the row's mascot, cheer, and motto. Some rows historically assign first-year members their "rookie names" and "rookie tricks" at this time, while other rows wait to assign names and tricks until getting to know their first-year members better.

Some, but not all, rows have a traditional row drink. Row drinks vary widely from row to row, but have included tequila, Goldschläger, champagne, and Rumpel Minze. In these rows, Squad Leaders invite all members to participate in the row drink regardless of their age, although new Band members have been told that they do not have to partake. In some cases, the Squad Leaders would also offer an alternative non-alcoholic drink for row members to consume. In describing this custom, Band members uniformly told the Task Force that they were never "forced" to drink, although one male Band member stated that he only felt comfortable declining the shot of alcohol when one of his Squad Leaders chose to abstain. Band members did not appear to recognize that behavior short of "force" or overt urging can amount to peer pressure.

After the initial row meeting, row members reconvene at an off-campus location so that the members can get to know each other better and continue to learn the row's traditions and expectations. Many rows have their own "row house," which is an off-campus residence in which a group of veteran Band members of the same row reside; other rows simply convene at one of the veteran Band member's off-campus houses. After these off-campus row gatherings, Band members are invited to an all-Band party. Many Band members attend this all-Band party.

At both the row gatherings and the all-Band party, alcohol is readily accessible to Band members, whether they are above or below the age of majority. Many who attended reported seeing numerous Band members drunk at the all-Band party, despite the fact that the Band members are expected at practice the next morning.

The row gatherings usually incorporated some form of initiation into the row. In some cases, the initiation was minor, such as being "knighted." Other initiations were far more complex as well as troubling. In one row, first-year members were forced into a basement and then called out individually and made to stand on a chair while being subjected to sophomoric and often highly embarrassing interrogations meant to humiliate and demean the first-year members in front of veteran members.

At the all-Band party, multiple Band members reported that first-year members of the Band were told to go outside of the row house, line up along a fence, march in

place, and perform “Hang on Sloopy” while veteran Band members looked on, laughed, and some yelled at them that they were not performing it correctly.

Although almost all Band members stated that they believed that Make the Band Night behavior was in “good fun,” other Band members found it “uncomfortable.” The pervasive drinking culture coupled with various degrees of hazing led more than one member to tell the Task Force that they found themselves in tears at the end of Make the Band Night and considered quitting the Band because they found the behavior so demeaning.

7. Rookie Names & Tricks

Historically, new members of the Band are assigned a “rookie name” by their Squad Leaders at an early point during their first-year in the Band. Some Squad Leaders provide rookie names to the new row members immediately on Make the Band Night, while others wait until they get to know the individual first-year members better. Those interviewed noted that the purpose of the rookie name is two-fold: (1) it provides a unique nickname for Band members who might share the same name in a Band of 225 people; and (2) it engenders a sense of family and belonging. Some Band members are known throughout their Band career and beyond by their rookie name, while for others, the rookie name is never used once it is given.

In order to gain perspective on rookie names and tricks, the Task Force asked current and former Band members to share their rookie name and trick, as well as any rookie names/tricks that could be considered offensive or objectionable. The vast majority of Band members interviewed freely shared their rookie name to Task Force members, although a few declined to do so.⁶⁴

The majority of rookie names reported to the Task Force by both current and former Band members were relatively innocuous in that the names referenced popular culture (e.g. movie characters), Band alumni, the personality or personal characteristics of the Band member (e.g. whether the Band member was chatty or tall), or bathroom humor (e.g. names that reference excrement).

A minority of both current and former male and female Band members, however, reported rookie names that did contain objectionable references; that is, the rookie names referenced sexual acts, objectified the bodies of the Band members, contained racial or homophobic slurs; or were personally demeaning. Both men and women were given rookie names that referenced sexual acts, sexual organs and secondary sexual characteristics, sexual slang, and marital aides.

Some Band members who are black or Asian had rookie names that referenced their race in less than flattering terminology. There were also rookie names given that used both traditional and slang slurs for homosexuals. And, in a few cases,

⁶⁴ While this section would be far more illustrative if the actual rookie names used were included, the Task Force has consciously chosen not to reprint rookie names in this report as doing so would identify, and thus single out, those Band members who came forward to speak with the Task Force.

the Task Force discovered rookie names that could be considered disparaging to those with disabilities.

The Task Force found that although the overall number of rookie names that were objectionable and/or offensive was in the minority, there were certain rows that predictably perpetuated the apparently long-standing tradition of naming first-year members with offensive, sexual, and/or demeaning names.

Many of the Band members who had objectionable rookie names told Task Force members that they did not like their rookie names initially, but that they grew to like their names over time because their nicknames were “unique” and brought them more attention than other Band members received. A few Band members reported that they did not like their rookie names and requested that fellow Band members either not use or change the nickname. In some cases, fellow Band members agreed to do so, although in at least one case, Band members continued to use a derogatory rookie name for a gay male throughout his tenure with the Band, even though he repeatedly requested that it not be used.

The Directors were generally aware that rookie names were being given, even through 2014, and learned of the rookie names through a variety of channels.⁶⁵ The row videos shown at Fesler Night often introduced the new Band members to the veterans by utilizing the veterans’ rookie names. Squad Leaders would also introduce the first-year members to the rest of the Band by their rookie name if they had already received one. Additionally, rookie names were utilized regularly by Band members during practices, at game days, on the buses, and during Band events.

The Task Force also found widespread use of rookie names (including objectionable ones) in the official game day newsletter of the Band, the Grey Baton, which was given to both Band members and Directors. And, on at least one occasion, the Band Directors were informed directly of an objectionable nickname. In that instance, a gay Squad Leader from one row complained to Mr. Waters directly about a rookie name that had been given to a first-year member by another Squad Leader because it contained a gay slur. Mr. Waters responded to this complaint by having the rookie name shortened to omit the gay slur, but took no other known action.

While rookie names were universal among all current and former Band members, rookie tricks were not.⁶⁶ The Task Force learned through its extensive interview process that a majority of current and former Band members were given a rookie trick, that is, a mini-performance that the Band member was supposed to do

⁶⁵ One of these channels was experience, as both Mr. Waters and Mr. Hoch, being alumni Band members themselves, had been given rookie names during their first-year with the Band.

⁶⁶ Indeed, Band alumni can choose to have their rookie name published in the TBDBITL Alumni Club membership directory. A review of the 2014 version of this directory reveals that far less than half of Band alumni choose to have their rookie name printed, and fewer still have objectionable rookie names printed. Still, the membership directory contains individuals who display rookie names that reference sexual organs and secondary sexual characteristics, sexual slang, drugs, and excrement.

whenever asked by a more senior Band member. A minority of Band members were given no rookie trick at all. Further, even of those Band members given a rookie trick, many were only asked to do it once or twice their first-year and were never asked to do it again. Thus, through interviews with the Task Force it appears that half to less than half of the Band members actually performed a rookie trick with any regularity. The nature and character of rookie tricks often depended on the long-standing traditions of a particular row and that year's Squad Leaders.

Much like the rookie names, the majority of the rookie tricks given out were not blatantly offensive in nature, such as giving a speech from a movie, singing a song, or performing a silly gesture. However, a small minority of rookie tricks called on the Band member to simulate a sexual act or perform an act or gesture that was sexist or racist in nature. Rookie tricks were generally performed when initially given to the first-year member by the Squad Leader, and then again during rookie introductions on bus trips.⁶⁷

8. Fesler Night

The Band holds its annual "Fesler Night" not long after "Make the Band Night." Fesler Night is a formal and highly-regarded event when the Directors and Squad Leaders reveal to new Band members the cherished history and traditions of the Band. Before attending the actual Fesler Night event, each row generally goes out as a group to a local restaurant; many rows have a traditional restaurant at which they gather.

Prior to Fesler Night, newly inducted Band members have been told little about what will happen that evening, except their Squad Leaders or veteran row members have instructed them to bring 20 shiny pennies to the event and have informed them, with varying degrees of specificity, to wear clean underwear.⁶⁸

Members arrive at the Band Center around 8:45 p.m. and remove their shoes, drop the 20 pennies into a sousaphone case, and then sit with their row in the Band center, with the first-year members of each row typically sitting in front. The Band room is draped and darkened for the evening's event. Fesler Night begins at 9 p.m. when the Director welcomes the Band members both to the event and to the Band in general. Over the course of the evening, Band members listen to three traditional speeches: a "Chain-of-Command" speech, the "Pitt Ramp"

⁶⁷ For purposes of historical context, the Task Force learned from alumni members that rookie tricks had also been performed during Make the Band Night. Prior to 2007, Band members would be permitted to wait for the Directors to announce the Band in the Band Center itself, rather than in the parking lot of the stadium. According to some of the alumni Band members, this led to Band members trying to ease the stress of the selection process by performing "humorous" rookie tricks and singing Songbook songs. In 2006, multiple alumni Band members reported that rookie tricks were performed on Make the Band Night that involved simulated sex and that Band members also sang sexually-themed songs from the Songbook. Complaints were registered to the Directors and so, beginning in 2007, rookie tricks were no longer permitted on Make the Band night.

⁶⁸ The Task Force learned that the 20 pennies were reportedly collected by a particular row to pay for the purchase of alcohol for its row's Traditions Night. Some Band members did not remember the number of pennies they were told to bring.

speech, and the “With Balls” speech. In between the speeches, Squad Leaders introduce their row members and the Band watches “row videos.”

a) *Chain-of-Command Speech*

The Chain-of-Command speech is traditionally given by the Director. Paying tribute to its military roots, the Director instructs first-year Band members to follow a chain-of-command structure, and raise issues first with their Squad Leaders, who in turn, can choose to bring issues to the Directors. This idea is reinforced by the Band Policies & Procedures, which advise Band members that “[l]ongevity adds another important [B]and tradition” and that each year in the Band “adds experience and a leadership expectation.”⁶⁹ The PnPs advise Band members to “work cooperatively” with their Squad Leaders who, in turn, “report directly to the directing staff.”⁷⁰

b) *Pitt Ramp Speech*

During the “Pitt Ramp” speech, the Band is shown a video of the 1996 ramp entrance at the Pitt game, in which the Band made a rare mistake leading to a disorganized ramp entrance into the stadium. The speech emphasizes that that the Band corrected its error mid-performance, completing its march down the field as a unit. The speech uses the video to illustrate the important lesson of listening to one another, not blaming each other (as happened after the Pitt Ramp incident), and working together as a family and a team to overcome obstacles.

c) *With Balls Speech*

The “With Balls” speech is typically delivered by the drum major. “With Balls” is an expression that originated more than 50 years ago at a home game against Northwestern. As the Band made its entrance, individuals with the opposing team failed to clear the field. The Band continued its march down the field, causing the lingering individuals to scatter. Northwestern suffered a humiliating loss and later, upon questioning regarding his team’s performance, Northwestern’s coach commented that the Band had played “with balls,” unlike his team.

The purpose of the speech is intended to instill within each member a sense of strength to persevere and to never flinch in the face of obstacles (particularly at crossovers during Script Ohio). The speech serves as a metaphor for the Band to “drive on down the field” no matter what obstacles Band members face. “With Balls” has been adopted as an

⁶⁹ Appendix N.
⁷⁰ Appendix N.

internal motto, and the Band repeats the expression row-by-row immediately before a Ramp Entrance.⁷¹

d) *Row Videos*

In between speeches, Squad Leaders introduce their row members by name (and by “rookie name” if one has been assigned) and also show “row videos” which are viewed by all present, including Directors. The purpose of the videos, according to Band members, is to introduce the Squad Leaders and veteran Band members of each row to the first-year members, as well as to share some of each row’s traditions with the Band as a whole. The videos are often an attempt to feature humorous depictions of life within each of the various rows. Each row submits its proposed video to the student staff section of the Band in advance of Fesler Night; the videos are then reviewed⁷² for content. If either the student staff or the directing staff finds anything in the video inappropriate, the video may be censored in whole or in part.

The Task Force reviewed row videos made and shown to the Band during Fesler Night from 2009 until 2014. Because the row videos were submitted, reviewed, and sometimes edited prior to being screened on Fesler Night, the Task Force only considered the “edited” versions of row videos.

While a good tradition in theory, it appears that most row videos contained some level of disturbingly inappropriate behavior. Two common themes could be found running through many of the videos: alcohol use and abuse and sexually inappropriate references and themes.

Many row videos depicting alcohol use and abuse, as well as hazing-like behavior were shown to the Band between 2009 and 2014. Numerous videos show Band members’ beds and houses littered with alcoholic containers. Among the activities described or depicted by Band members:

- Mixing an unappealing combination of foods and/or alcohol in a blender and making row members drink the concoction. Band members can be seen gagging, spitting, and vomiting the concoctions in the videos.
- Drinking four shots from a Jack Daniels whiskey bottle that has been crudely disguised with a fake label that says “Milk Daniels.”⁷³
- Playing a game of “beer pong” (a game in which members have to try to bounce a Ping-Pong ball into a cup filled with liquid, usually alcohol) with chocolate milk. One Band member consumes so much chocolate milk that he vomits.

⁷¹ Historically, the letters “WB” were also painted over the ramp entrance in Ohio Stadium.

⁷² It is unclear to the Task Force who actually reviewed these videos prior to the 2014 season.

⁷³ In many of the videos, milk is used as a thinly-veiled reference to alcohol.

- Chugging gallons of milk through a funnel until the Band member vomits.

Numerous row videos also depicted sexually inappropriate or offensive themes. Among the activities depicted:

- Marching with instruments while wearing nothing but pennants over their genitals.
- Simulating masturbation using a Shake Weight at various locations around Columbus, Ohio.
- Having male Band members pose suggestively while wearing only a Band hat or a music sheet held over their genitals.
- Answering the door for a pizza delivery driver while topless (female) and while wearing bikini underwear with eyeballs and a long, red tongue covering the genital region of the underwear (male).⁷⁴ Simulating masturbation while looking at pictures of fellow Band members and/or pictures of Band volunteers.
- Playing a game called “gay chicken” amongst the male members of the row. During the game, the male Band members lean in to kiss each other and the one who “chickens out” loses the round.

Of concern to the Task Force is that even the edited, reviewed version of the videos contained greatly inappropriate behavior, yet the videos were approved and viewed by all, including the entire directing staff. Some Band members who had witnessed these videos described them as “over the top” and “gross.”

Of even greater concern is Mr. Waters’ participation in some of the objectionable videos. Mr. Waters was seen in numerous row videos, including ones where he (1) used the Shake Weight that Band members had utilized to simulate masturbation, holding it over his head with both hands and shouting, “Fesler is Coming;” (2) talked about the Mile High Club and observing former Director Dr. Jon Woods (“Dr. Woods”) naked; and (3) asked the Band members, “Why is it always about sex with you people?” Mr. Waters also appeared in another row video where he and a Band member engaged in a lengthy discussion about appropriate content for Fesler Night videos. In the video, Mr. Waters responded to Band member’s questions in opining that “butthole,” “taint,” “penis,” “Amanaconda,” “Bananimal,” and “Stinky Twinkie” were all appropriate terms to use in videos. The row members then asked Mr. Waters about

⁷⁴ The female Band member was filmed from behind, with a skinny black bar appearing on the video whenever she turned to the side. When she turned to face the camera at the end of her skit, a large black bar appeared, covering her bare breasts.

whether various outfits were acceptable for Fesler Night videos, including a male Band member wearing nothing besides Superman bikini underwear (wherein Mr. Waters remarked, “I have a pair of those.”), another male Band member wearing shorts so tight that his genitals were clearly visible, and a third Band member wearing blue jeans that had been cut so that when the Band member turned around, his buttocks were clearly visible as he bent over and mooned Mr. Waters.

The Task Force’s review of the row videos between 2009 and 2013 demonstrates that Band members intended the videos not only to be humorous, but also to be shocking.

e) *The Conclusion of Fesler Night*

At the conclusion of all the speeches and row videos, Fesler (Fesler is a mascot) is solemnly unveiled to the Band members and each first-year member of the Band takes an oath to keep the events of Fesler Night from reaching anyone outside of the “Band family,” to obey the Directors of the Band, and to respect and obey their Squad Leaders, and to “look both ways before they cross the street.”⁷⁵

To officially conclude Fesler Night, the Squad Leaders perform “Hang on Sloopy” and “Carmen Ohio.” The Squad Leaders then stand behind curtains that have been draped in the Band room for the purpose of Fesler Night, and the Director ends the Fesler Night presentation by instructing the Squad Leaders to “Take Charge of Your Rows!” and leaves the room. In interviews, some members indicated that while behind the curtains, the Squad Leaders would sometimes pass a flask of alcohol among themselves. The Squad Leaders then jump out with their instruments from behind the curtain wearing only their underwear yelling “Let’s go!” and the tradition of the Midnight Ramp begins.

9. *Midnight Ramp*

Prior to 2010, Midnight Ramp took place at midnight and approximately two to three hours after the conclusion of Fesler Night. Band members would usually depart the stadium and, according to alumni Band members, go to an off-campus house and drink alcohol prior to reconvening around midnight for Midnight Ramp.

In 2009, a first-year Band member consumed so much alcohol prior to returning for Midnight Ramp that he passed out in the stadium and was unresponsive. The graduate assistant who was overseeing Midnight Ramp that year called 9-1-1, and both University police and emergency medical personnel responded to the stadium and transported the member to the hospital. The University police, upon

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Appendix S: Fesler Night 2013 Oath.

arrival at the stadium, observed several Band members who appeared to be intoxicated, as well as multiple beer cans present in the Band Center.

University police cited the Band member who had alcohol poisoning for underage drinking, and referred him, the graduate assistant, and a belligerent Band member to the University's Department of Student Conduct. Additionally, the directing staff punished the student with alcohol poisoning by depriving him of the opportunity to march with the Band for two weeks, while the Squad Leaders for his row lost their ability to perform on game day for one week.⁷⁶

After this incident, there was a meeting⁷⁷ with then-Band Director Dr. Woods, then-Assistant Director Mr. Waters, then-Director of the School of Music Dr. Ed Adelson, and then-Dean of Arts and Humanities Dr. John Roberts. All parties agreed that (1) Midnight Ramp would take place directly after Fesler night in the future so that Band members would be unable to consume alcohol in between the two events; (2) Band Directors would be present to ensure the behavior and safety of the Band members; and (3) both the School of Music and University police would be notified of Midnight Ramp ahead of time.⁷⁸

Beginning with the 2010 Midnight Ramp, the Directors would instruct the Squad Leaders, "Take charge of your rows!" and instead of leaving the stadium, as they did in 2009 and prior years, they proceeded to the interior of the stadium to observe the Midnight Ramp occur. Once the Directors left the room, the Squad Leaders came out from behind the curtains wearing nothing but their underwear. The Squad Leaders then shouted to the Band members to take off their clothes, retrieve their instruments, and assemble at the stadium's ramp.

In interviews with the Task Force, members indicated that once gathered at the ramp, the Band members who chose to participate would run down the ramp playing their instruments and then run across the field. The Task Force was informed that the entire Midnight Ramp took no longer than five to ten minutes, and it is said to have been originally designed to calm the nerves of the Band members on the theory that if they could do a ramp entrance in their underwear, then they could do it in their uniform when the stadium is filled to capacity with spectators.⁷⁹

⁷⁶ It is important to note that Mr. Waters and former Band Director Dr. Woods disputed police accounts about the presence of alcohol at this event. Interviews with the University officers who responded to the 2009 Midnight Ramp make clear that there were inebriated Band members at the stadium that night, as well as beer cans strewn about the Band center. Neither Mr. Waters nor Dr. Woods ever spoke to the officers who responded to the stadium that night. Appendix Z: September 9, 10, 11, 2009 emails re OSU Marching Band Incident and 9-8-09 Party in the Band Room.

⁷⁷ This meeting is discussed in more detail in the Administrative Oversight Review section of this report.

⁷⁸ Of the four attendees in this meeting, the Task Force spoke only with Dr. Adelson. Dr. Adelson indicated that he was the only one with knowledge of Band members performing the Midnight Ramp in their underwear, and is uncertain whether he informed anyone of this fact at that meeting. Director Woods was unavailable to be interviewed. Mr. Roberts declined to be interviewed. Mr. Waters' written statement did not address this issue.

⁷⁹ Many current and former Band members provided the Task Force with this same explanation, frequently verbatim, as to why Midnight Ramp was performed in the student's underwear. However, from 2009-2011, prior to the University's transition to semesters, Midnight Ramp occurred after the Band's performance of its first ramp before 105,000 spectators.

Band members who were interviewed were largely ignorant of what would occur at Midnight Ramp, although most of them had been told either to wear clean underwear or that “Fesler likes clean underwear.” Some Band members learned about Midnight Ramp from alumni Band members.

Although a few Band members expressed discomfort with the idea of marching in underwear, the overwhelming majority of Band members reported that they found Midnight Ramp to be an enjoyable, liberating, and “trust-building” exercise. The Band members reported that “approximately 95%” of the Band members chose to march in their underwear, but that those choosing to wear more clothing were not singled out or ridiculed for doing so. Some Band members reported feeling peer pressure to participate in their underwear, however, and that such pressure was reinforced by Squad Leaders shouting at the Band to “take your clothes off.”

Task Force members asked Band members who were in the Band since 2009 whether they felt uncomfortable having the Directors present for Midnight Ramp in that the Directors were observing them march in their underwear. None of the Band members interviewed, male or female, had an issue with the Directors watching the Midnight Ramp, with members reporting that it made them feel “safe,” and that it was not an issue because the Directors, themselves, had gone through Midnight Ramp when they had been students in the Band. Some female members did tell the Task Force that the presence of the Directors at the Midnight Ramp was odd and another female member told the Task Force she was one of the last Band members to leave the field and thought it was “creepy” that the Directors were directly behind her while she was walking back to the Band center in her underwear.

According to interviews with current Band members and Squad Leaders, Mr. Waters proposed the idea of ceasing Midnight Ramp in 2014 to the Squad Leaders in the spring of 2014. Midnight Ramp was not scheduled for 2014.

10. Band Dances

The Band holds an annual Band Dance sponsored by the local chapter of the Band fraternity, Kappa Kappa Psi. This tradition has both positive and negative elements. The Band Dance is a formal event held at a local hotel or other similar establishment.

Current and alumni Band members uniformly reported that alcohol consumption had historically been a very real problem at the Band Dance. Many Band members would “pre-game,” that is, drink heavily before going to the dance. Some would then arrive so intoxicated that they would vomit in the bathroom, and would have to leave the Band Dance with assistance. Most interviewees reported that Band Dances were, until 2012, out of control.

Four Band dances have taken place within the five-year review period on which the Task Force focused. Of the four locations that the Band utilized for their

Band dance, three reportedly banned⁸⁰ the Band from returning the following year due to either property damage or the abysmal state of the restroom in the wake of the dance. Band members reported that in the last two years, Mr. Waters made certain changes to the Band Dance to eliminate the alcohol problem. Two years ago, Mr. Waters told Band members that anyone who showed up to the Band dance intoxicated would be turned away at the door. Last year, Mr. Waters informed Band members that anyone who was at the Band dance in an intoxicated state would be suspended from the Band for a period of time.⁸¹

Multiple Band members reported that awards were given at the dance for certain physical attributes such as largest breasts and most attractive buttocks. According to multiple Band members, the Directors of the Band are aware of these awards and the meaning behind them.

11. Band Publications

a) *The Grey Baton*

The Band produces a number of publications for the benefit of fellow Band members. The first—The Grey Baton—is a game-day newsletter publication that is produced by a variety of students and features articles on the opponents’ marching Band and football team; on other Big 10 teams; weather reports; and light-hearted humor pieces on the Directors and other Band members. All the articles in the Grey Baton are published under either the author’s real name or rookie name.

b) *Trip Tic*

Task Force members asked both current and former Band members about the Trip Tic. All Band members who were in the Band prior to 2012 recall seeing Trip Tics although none of the Band members retained any copies. Multiple Band members told Task Force members that the Trip Tic was an “underground” anonymous newsletter that contained anonymous articles submitted by other Band members. Articles were submitted to an anonymous email. According to the Band members, the Trip Tic was produced once per year (reportedly by a row that has a reputation for assigning some of the more offensive rookie names and rookie tricks), and distributed during a bus trip to an away game. Band members recalled that only a few copies were distributed per bus and stated that veteran Band members attempted to keep the Trip Tic away from the Directors and first-year Band members.

Band members reported that the purpose of the Trip Tic was to provide an anonymous vehicle for members to air their grievances about the Band or

⁸⁰ It is unclear if the Band could return to one of the three venues if it had satisfied certain conditions.

⁸¹ The Band fraternity was suspended for alcohol consumption and related behavior at their Regional Convention on April 13, 2011. Appendix T: Kappa Kappa Psi Letter of Suspension, April 13, 2011.

about each other without repercussions. However, the Band members interviewed almost uniformly stated that the Trip Tic was “ugly” and unnecessary. Based on interviews with Band members who were the subjects of Trip Tic articles, as well as those who had read the Trip Tics, individual articles were personally disparaging to Band members, including deriding female Band members for their bodies and their sex lives.

Current members interviewed by the Task Force do not recall seeing a Trip Tic since 2012, when Mr. Waters banned it after a particularly disparaging and mean-spirited article was written about a female Band member. Mr. Waters reportedly indicated there would be significant consequences if he saw the Trip Tic again.

c) *The Songbook*

The Songbook is another “underground” publication. It consists of a collection of unofficial school songs dating back decades, as well as more recent additions. The Songbook features the Band’s official songs (the “Buckeye Battle Cry” and “Carmen Ohio”); off-color versions of rival school fight songs, as well as songs that have sexual, sexist, homophobic, racist, and alcohol-themed lyrics. The Task Force has reviewed a 2006, 2010, and 2012 version of the songbook. The 2012 version contained a new, highly offensive song regarding Jews and the Holocaust.

Band members indicated that most songs in the Songbook were never actually sung, except for perhaps the “altered” fight songs of rival schools.

Band members told the Task Force they were made aware of the Songbook in a variety of ways. Multiple Band members received a copy of the Songbook from their Squad Leader, including a 2011 version; others had access to Songbooks at Band parties; others saw historic versions of the Songbook when at alumni Band members’ houses for row dinners. Some saw the Songbook but never actually read it. Still others reported never seeing an actual Songbook, but being aware that it existed and of some of the songs through oral tradition.

Although all the Band members admitted that the Songbook contained songs with sexist, sexual, racist, and homophobic lyrics, many Band members spoke of the Songbook positively because it was a historic and “secret” tradition of the Band and it made them feel included to have the Songbook shared with them. According to a few interviewees, Band members would sing Songbook songs at parties or while polishing instruments. Band members would also attempt to sing Songbook songs on the bus rides to away games, but Band members uniformly reported that chaperones would stop the songs soon after they began.

F. Band Behavior

1. Band Viewed as a “Family”

In speaking with Band members, staff, and directors, it is overwhelmingly clear that the Band views itself as a large, extended family. In interviews, both current and former Band members indicated that their time in the Marching Band was among the best in their lives. They learned showmanship, developed leadership skills, and found life-long friends in the Band. Familial feelings are even closer among row members, who often keep in touch long after graduation from the Band and the University. Band members reported to the Task Force that they felt at their safest with their fellow Band members and believed Band members to be protective of each other.

The viewpoint of the Band as a “family” is instilled in Band members quickly. Given the amount of time Band members spend with each other during marching Band season and the relative age of the incoming Band members (usually the late teens or early 20s), new Band members quickly adopt the traditions of the Band, their “family,” as normative behaviors. For example, a first-year Band member who was interviewed by the Task Force became so angry when discussing Mr. Waters’ firing that his eyes welled up with tears, despite the fact that he had never personally met or been instructed by Mr. Waters.

A professor of popular culture who spoke with the Task Force reinforced this idea, saying that individuals often feel pressure to adopt the customs of a group upon joining it, and after being a part of the group for a period of time, can rarely recall with accuracy their feelings about those customs before they joined the group, adopted the customs, and handed them down to new members.

One of those normative behaviors that the Task Force witnessed was an avid interest in secrecy. Numerous Band members reported being upset that the Band’s traditions had been exposed to the public through the University’s July 22, 2014 Title IX Report and expressed that those traditions were supposed to “remain in the family” and that the public did not “deserve” to know the Band’s traditions.

Interestingly, although there is a significant amount of peer pressure within the Band to accept practices or traditions that would otherwise be intolerable, a great number of members do not feel that atmosphere amounts to peer pressure. Many members have aspired their whole life to make the Band. They will “do anything” to make the Band and as a result, many end up accepting traditions, practices, or behaviors that they would not otherwise tolerate. While several Band members said they felt “peer pressure,” other members described going along with certain Band activities that they wouldn’t have engaged in on their own but maintained they did it voluntarily and not because of “peer pressure.”

After conducting its interviews, the Task Force finds it hard to overstate the amount of subtle, and often overt, peer pressure existing in the Band’s culture. While often the peer pressure is positive—instilling an expectation of

performance excellence—sometimes the peer pressure is negative, resulting in abusive drinking and inappropriate behaviors.

The close-knit nature of the Band has led to a culture of “keeping it in the family.” Indeed, under Dr. Woods’ tenure as Band Director, the term “circle the wagons” was used as a theme when the Band was confronted with outside scrutiny. The Band’s hierarchy and chain-of-command structure are so ingrained in the members’ thought process that they often appear to have forgotten that when they have issues, concerns, or problems, there are avenues of recourse available to them outside of the Band.

For example, current Band members stated that a male Band member who was found guilty of committing a sexual assault against a female Band member in Autumn 2013 had a history of making inappropriate and aggressive advances toward female members of the Band. Yet the Task Force found no evidence that any Band member reported this inappropriate conduct to the Directors of the Band or to the Office of Student Life before the sexual assault occurred.

Similarly, current Band members reported that a male student in the Band became very abusive and demeaning toward other members in the Band during his last year in the Band. Again, the Task Force found no evidence that the Band members reported this behavior to the Directors or to the Office of Student Life.

During interviews, Band members expressed a significant preference for handling issues that arise within the Band internally at the Squad Leader, or if necessary, the Director level. During some interviews, Task Force members asked Band members what they would do if their Squad Leaders were behaving inappropriately towards them, and most members responded that they would tell their friends in the Band or another Squad Leader. None of the members stated that they would seek advice and help outside the Band.

2. Bus Behavior

Whenever the Band attends an away game, it generally charters six buses to transport the Band to the away game location. Each of the rows travel with two others on these buses as follows: A-Row with J-Row and I-Row; B-Row travels with T-Row and X-Row; C-Row travels with D-Row and the student staff; E-Row travels with R-Row and S-Row; F-Row travels with H-Row and M-Row; and K-Row travels with L-Row and Q-Row.

Bus seating is organized by row, with one row sitting towards the front, another towards the back, and the third in the middle. Each bus has a chaperone, who can be one of the Directors, an instructor, a graduate assistant, or an external party affiliated with the Band. The chaperone’s responsibility is to ensure that the Band members behave while traveling on the bus. On these buses, Band members would engage in certain activities and/or play certain games depending on the tolerance level of the chaperone assigned to their bus.

a) *Roller Bus*

Roller Bus is a game that has historically been played by Band members while traveling on the buses. The challenge of Roller Bus is for members seated toward the front of the bus to score points by touching the back of the bus, and for members seated toward the back of the bus to score points by touching the front of the bus. The row seated in the middle of the bus plays the game by attempting to prevent both of the other rows from obtaining a point. While playing Roller Bus, Band members climb over and under seats and through the luggage racks in order to obtain their objective.

Numerous Band members, both current and former, told the Task Force that they engaged in the game of Roller Bus while riding to and from marching Band events. On some occasions, Roller Bus would occur while the bus was moving, at other times, while the bus was stopped. Roller Bus has continued to be played despite the fact that Band members have broken fingers while engaged in the game. Whether Roller Bus took place on any given bus depended greatly on the bus chaperone for that particular bus. Some bus chaperones would never allow Roller Bus to be played in their presence, while others would routinely allow Roller Bus to be played. According to current Band members, a Roller Bus game could last anywhere from two minutes all the way to 25 minutes.

b) *Flying 69*

A “Flying 69” is a maneuver performed on the buses by two Band members while suspended from a luggage rack. One Band member hangs down from the luggage rack face down while the other Band member attempts to lift him or herself up face-up to the luggage rack. Each Band member’s face is positioned near the abdominal or pelvic region of the other Band member. The Task Force discussed “Flying 69”s with both current and alumni Band members; approximately half of those interviewed had seen a “Flying 69” at some point during their time in the Band. Both alumni and current Band members observed “Flying 69”s being performed on multiple buses during their trips with the Band, including within the last two years. Some Band members described the “Flying 69” as a “feat of strength” that was completely “non-sexual . . . except for the name and the position.”

c) *Rookie Introductions*

According to current Band members, rookie introductions usually took place on a bus trip to an away venue. However, if the chaperone on a particular bus banned rookie introductions, then the Band members would do the introductions at a “Traditions Night” at a row member’s house. Rookie introductions done on a bus would universally consist of the first-year member getting up in front of the bus and stating his/her name, where

he/she was from, and singing his/her high school fight song. If the first-year members had been given a nickname and trick at this point, they would also perform that during their introduction.

Other rows had additional elements as part of the rookie introductions. Some rows would have first-year members tell a joke. According to multiple Band members, jokes were often racist, sexist, homophobic, or sexually-themed. According to one Band member, his row encouraged its first-year members to be as “outrageous as possible” during their rookie introductions.

In some rows, after first-years completed their introductions, the first-years would have to march to the rear of the bus and either sit down or enter the bathroom. This would be done one-by-one so that every first-year member would eventually up in the bathroom together or on the same seat. Once rookie introductions were completed for a particular row, the first-year members would be permitted to return to their own seats. If the first-years were dressed in their marching Band uniforms on the bus, then the other Band members on the bus would attempt to remove the berets and cross-belts from the uniforms while the first-years marched to the rear of the bus. The Band members interviewed stated that this exercise was to ensure that the new members had their uniforms affixed correctly.

In some rows, where introductions took place at Band members’ houses, rookie introductions would reportedly also consist of the first-year standing up and stating his/her name, where he/she was from, and singing his/her high school fight song. Similarly, if the first-year members had been given a nickname and trick at this point, they would also perform that during their introduction. First-years would also sometimes be asked to tell the row a joke, with more outrageous jokes being rewarded with praise by veteran row members. Additionally, multiple Band members stated that during their introductions, they were quizzed about the details of their sexual history.

d) *Rookie Midterms*

Rookie midterms took place on bus rides to away trips. Almost all of the rows gave their first-year members a midterm, which according to the Band members interviewed, was a combination of written questions and physical challenges, such as being tasked to get up and shout a phrase or get up and perform an action. According to the interviewees, the Squad Leaders and veteran row members would create the midterms, and once the first-years had completed it, the Squad Leaders would review them. The Task Force found through its interviews that the content of the midterms varied widely from row to row, although most interviewees reported that their rookie midterms contained questions regarding (1) Band and University football history, and (2) the other row members. According to Band members, some rows also tested their first-years on

sexually-themed questions, such as drawing a penis, or ranking the row members on penis size. One Band member reported that his row's midterm was 40% sexual in nature. Other rows, however, were reported to have more open-ended questions, such as to write down a limerick or story. Interviewees stated, however, that in those rows, the Squad Leaders would say that they would get more "credit" for more sexual or funny answers.

Some rookie midterms involved physical challenges. While almost all were reportedly non-sexual in nature, one female Band member had to demonstrate to another Band member how to put a condom on a banana. Another female Band member was asked during her rookie midterm to fake an orgasm, which she declined to do.

In addition, a notable number of Band members interviewed reported that they were annoyed by the rookie midterms because they would prefer to sleep or to study during the bus trips.

3. Band Parties

Outside of the Make the Band night parties, Band members would have various parties throughout the Band season, including i-Dot parties and other row-specific parties. The i-Dot parties were all-Band parties that were held to celebrate the sousaphone player who had an opportunity to "dot the i" during the Band's performance of a Script Ohio. These parties are traditionally held at a row house that is historically one of the rowdier rows.

In interviews, multiple Band members stated that first-year members of the row are assigned to the front door during these parties to stamp the hands of those who were underage; however, multiple Band members also stated that it was no issue for underage Band members to obtain alcohol at i-Dot parties.

Some row parties are centered on specific drinking games, and in interviews, multiple row members report having passed out or blacked out from consuming too much alcohol.

4. Excessive alcohol consumption

Alcohol was also cited as an issue by Band staff and members at most of the Band functions, both official and unofficial.⁸² It starts with Make the Band Night when row drinks are introduced, and continues through Fesler Night, Midnight Ramp, Band parties, pep bands, away games, Band trips, and the Band dance. Row videos contain scenes in which houses are littered with alcohol containers and members appear to be passed out, vomiting, kneeling over a toilet, or pretending to drink alcoholic beverages.

⁸² Reportedly, the alcohol consumed on "Uncle Jack" night is purchased by the pennies contributed by all Band members on Fesler Night. In 2013, a sexual assault was reported as occurring between a male Band member and a female Band member at "Uncle Jack" night. In addition, in two of the sexual assaults that the Task Force is aware of, both involved parties had consumed alcohol.

Alcohol was notably cited in relation to the 2013 Band trips to California and Put-In-Bay. Although alcohol has been banned on buses and at hotels on away trips since before 2008, of-age Band members have historically been permitted to consume alcohol during their free time while on Band-sponsored trips. Band members reported seeing other Band members consume alcohol and appear intoxicated while on the California trip, although no Band members reported that any Band member was inebriated while performing or in uniform.

Additionally, with a full day spent at Put-In-Bay for the Battle of Lake Erie Bicentennial performance, many members of the Band noted that fellow Band members consumed alcohol during the hours prior to the Band's evening performance. At the Band's performance that evening, according to several Band members, some Band members were drunk while performing and alcohol consumption affected the Band's sound and performance that evening.⁸³

Alcohol was frequently cited during Band member interviews as excessive and problematic at the Band's annual dance sponsored by Kappa Kappa Psi. A number of Band students also noted that Kappa Kappa Psi, the national honorary band fraternity, received a suspension from the national chapter in April 2011 for an incident involving alcohol use at the organization's regional conference. This was later reduced to probation, but required all members of the fraternity to attend mandatory alcohol abuse training through the University's Student Wellness Center.

In sum, the Task Force found that while not all Band members drink alcohol, alcohol use and abuse is widespread within the Band, as it is throughout college, and is a part of much of the Band's non-performance time together.

5. Hazing Traditions

In addition to the rookie names, tricks, introductions, and initiations mentioned above, the Task Force discovered additional conduct that could be viewed as hazing behavior. One row has traditionally required the first-years to polish the instruments of veteran Band members.⁸⁴ Additionally, first-year Band members have historically been tasked with purchasing and providing game day food and drink for all the members of their row. Mr. Waters ceased this practice in 2012.

One practice that Mr. Waters did not cease, however, was a longstanding hazing tradition of a particular row that involves first-year members being blindfolded, led into a dark room, and then interrogated about, among other things, which of their fellow row members were doing a terrible job. They were belittled by both Squad Leaders and veteran row members while some row members threw objects at lockers to make startling noises. According to one Band member, as part of this tradition, Mr. Waters pulled the first-year members of that row aside a few

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Appendix U: The Ohio State University Office of Student Life Trends and Consequences of Alcohol Use.

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It is uncertain whether this practice actually ceased prior to 2014.

days before the hazing event and berated them for not performing up to par, threatening that they would be cut from the Band.

Based on interviews with the Task Force, whether or not hazing traditions took place within the rows appears to be highly dependent on the row history and traditions, as well as the personal preferences of the Squad Leaders and veteran row members. For example, one current Marching Band member said that, unlike many other first-year members his year, he was not forced to fetch beer for veteran Band members or march outside and perform “Hang on Sloopy” at the Make the Band party because his Assistant Squad Leader clearly told other veteran Band members that his row’s first-year members would neither serve beer nor be forced to march. That Band member thus had a much more positive impression of Make the Band night than the male Band member who was forced to do both and wound up in his dorm room, crying, and re-thinking about his decision to try out for the Band.

As another example, some female Band members reported that during Midnight Ramp, Squad Leaders or veteran members pulled them aside and specifically told them they did not have to march in Midnight Ramp in their underwear. In this case, the interviewees painted a more positive picture of Midnight Ramp than members who felt uncomfortable but just decided to “go with the flow” because everyone else was participating.

G. Alumni Influence on the Band

Band alumni have a large and overall positive influence on the Band. Alumni have traditionally demonstrated an active support of, and caring for, Band members. They will often provide drinks, lunches, and meal gift cards during Summer Sessions and practices, host row dinners, and open their homes to members who are traveling for games or out-of-town performances. In interviews with alumni, many state that being in the Marching Band was one of the best things they have ever done, and taking care of current members is an extension of that experience.

The Band has a close-knit relationship with its alumni association, TBDBITL. All persons who have ever been on the official roster of the Band are considered members of TBDBITL, although the club solicits member dues to support the activities of the club, which include publishing an alumni directory, hosting an annual reunion, and supporting alumni bands. Band alumni host current members in their home for row dinners, and they also often host both pep Bands and the full Marching Band at away games. The PnPs list TBDBITL as an “area of support” to the Band in that TBDBITL provides “financial and logistical support” to the Band, including scheduling out-of-town concerts.

Current Band members described their interactions with alumni as primarily positive and welcoming, though many noted that alumni Band members have told them that today’s Band members have it “easy” compared to the alumni members and that the current Band has become “soft.” Current Band members noted that both veteran Band members and alumni were often opposed to any tradition changes in the Band, whether it was that Mr. Waters eliminated the practice of first-year Band members buying all snacks and drinks

for the rows on game days or the banning of the Trip Tic. Many current Band members also stated that the first time they saw or were given a copy of the Songbook was at an alumnus's house.

Regrettably, the Task Force did learn of some especially troubling events or undercurrents with some alumni interaction, which detract from the generally positive influence that the alumni have had on the Band. In particular, current Band members reported that at many alumni events, the alumni encourage excessive drinking.

In one example, a pep band was performing for an alumni group in northern Ohio. The alumni group was playing a version of Plinko (a game based on the TV show "The Price is Right"). One of the possible outcomes of each player's turn was that Band members would have to drink a shot. One member told the Task Force that by the end of the evening, she had consumed at least a dozen shots and had "blacked out" and was very sick. The pep band members stayed overnight in condominiums provided by alumni that had refrigerators stocked with free alcohol for the Band members.

The Task Force also learned of another pep band held off-campus and heavily attended by alumni. Band members must be over 21 to participate. Members relayed to the Task Force that the pep band members perform twice at the event, and drink to excess in between performances. The second performance is taken far less seriously, with members sometimes trading instruments, and many performing while highly intoxicated.

As previously mentioned, some alumni have also provided copies of the Songbook to current members. The Task Force noted that there appears to be a small group of alumni that attempts to perpetuate traditions even when it is clear that the tradition is inappropriate, and possibly in violation of University policies.

H. Independent Online Survey⁸⁵

In conjunction with the interviews, the Task Force engaged the consulting firm of ModernThink to conduct a neutral, objective cultural assessment of the Band using a climate survey that included questions related to Title IX issues, including fair treatment and sexual assault; alcohol use and abuse issues; training, policies, and resources; and Band leadership. The survey included three open-ended questions regarding the Band's culture that provided Band members with an opportunity to submit detailed written responses. One of the purposes of the open-ended questions was to give Band members who did not want to contact the Task Force directly an outlet to provide information anonymously.

Prior to the survey being distributed to Band members, the Task Force was aware of the substantial media coverage (including print, television, Internet and social media coverage) regarding the firing of Mr. Waters and the Title IX Report. The Task Force understood that it was not operating in a media-free vacuum, and that the results would be influenced by a sophisticated campaign mounted by those opposing Mr. Waters'

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firing. Despite this, the Task Force still wanted to provide Band members with an anonymous avenue to provide detailed input regarding the culture of the Band.

In addition, the Task Force was disappointed by the obvious attempts made by TBDBITL to directly influence the Task Force's findings through communications with its membership. The Task Force learned that TBDBITL's communications with its membership sought both to control the pool of current and alumni Band members who responded to the online survey, as well as the content of their responses. As described above, TBDBITL sent emails to its membership on August 12, 2014, two weeks before the survey was sent to Band members, and again on August 26, 2014, one day before the survey was sent to Band members. These emails gave TBDBITL alumni members and current Band members "talking points" regarding the University's firing of Mr. Waters, the Title IX Report, and the culture of the Band.

Further, during the actual administration of the survey, the Task Force learned that TBDBITL members were directly utilizing Facebook messages and status updates to "spread the word" not to complete the "poorly worded/confusing/leading survey" until Mr. Waters' legal team had reviewed the survey.⁸⁶

It is impossible to quantify the potential effect that both the media saturation and TBDBITL's influence had over both the survey's response rate and the character of the responses. Certainly, the "talking points" distributed by TBDBITL found their way into the open-ended questions provided on the survey. Despite the concerns that the Task Force has over the potential adverse influence that the media coverage and the TBDBITL influence had over the responses, the survey results are presented here both for the sake of completeness and to share some of the revelatory responses that were received by the Task Force despite TBDBITL's machinations.

1. Band Structure and Workload

Overall, survey takers rated the Band, its Directors, and its Squad Leaders exceptionally positively. Both male and female survey takers rated both Band Directors and Squad Leaders highly, with an overall positive percentage score of 96% and 94%, respectively. Both current and alumni survey takers responded that the Band Directors treated males and females equally and respectfully.

In the comment portion of the online survey, Band members said that the Directors "cared deeply" about the Band and were "genuinely invested" in Band members' well-being and success. They described the Directors as "tough" and "dedicated," but "friendly." One survey taker, however, was concerned that the Director had "too much power," which could lead to Band members being afraid to discuss issues openly for fear of retaliation.

Survey takers also stressed that the Band was a meritocracy and that its members had a high work ethic. One survey taker described the Band as "inherently egalitarian" while others commented on its "tradition of excellence." Other

survey takers believed that the “rigorous tryout process and inherently militaristic nature” of the Band instilled self-discipline, respect, and “a desire and drive to be the best.” Survey takers also commented on the Band’s relationship with the community, stating that the Band’s “culture is based around pride, service, and excellence” and a commitment to performing for, and assisting, “the campus, city, and country.”

Band members reported that both Squad Leaders and Directors instill values through discipline “on the field,” which carries over to discipline “off the field.” Similarly, they spoke of Squad Leaders as being “a positive influence” and “supportive.” One survey taker, however, was concerned about the role of the Squad Leaders during tryouts. This survey taker felt that because the Squad Leaders “judge all students trying out for their row,” there is potential for “manipulation” when selecting candidates who will fit in with the Band’s culture and who will be socially acceptable to the Squad Leaders.

Numerous survey takers commented on the workload demands on the Band. According to their comments, the demands on the Band require Band members to “spend every single day” with each other “from August through December.” For many survey takers, this was not an issue because they believed their fellow row members to be their “best friends” and/or “siblings.” But for at least one survey taker, being around “the same group of people for four months” was taxing. Other survey takers noted that the Band’s schedule caused “immense levels of stress” and was “grueling,” but helped Band members to learn time management skills. Other survey takers stated that the workload of the Band was so high that members would neglect other classes “in order to memorize” music.

2. Band Viewed as a “Family”

The majority of the online survey takers emphasized that the Band feels like a family, that the rows are close-knit support systems for Band members, and that members feel protective of each other and safe within the Band. Online survey takers also reported their pride in being a member of the Band, and frequently used the terms “welcoming” and “inclusive” to describe the Band.

A significant and consistent theme in the survey responses was that “we in the OSUMB are a family.” Numerous survey takers reported that they felt the Band was their “second home.” Survey takers described the Directors as their “parents,” Squad Leaders as “older siblings,” and fellow Band members as “brothers and sisters.” This sense of family was instilled by the Band in first-year members almost immediately. One survey taker noted that he/she had known his/her fellow Band members for only “three weeks,” but they were all “best friends.” Another survey taker stated that he/she would consider the Band “family” after only knowing them for “two weeks.” Additionally, survey takers reported that Band members are “extremely protective” of one another and “take care of [their] own.”

Survey takers noted that the Band's culture allowed Band members to become so close that they acted "more as a unit rather than individuals." Indeed, one survey taker stated that the Band had a "group or pack mentality" and when the majority advocates for a position, "almost all follow." Another survey taker stated that the Band can act like a "sponge," in that a small shift in attitude from a small group of Band members can "very quickly" become the attitude of the "entire organization." Additionally, one survey taker reported that Band members may "feel a self-induced" pressure to act or perform in certain ways "in order to gain acceptance from others" in the Band.

Indeed, multiple survey takers noted that there was concern that new Band members "would not voice discomfort with activities" and would "go with the flow" even though they felt "uncomfortable" rather than "take a stance against the majority." Over 20% of survey takers responded that Band members who opt out of a Band tradition receive negative treatment for doing so from other Band members. In other words, survey takers recognized that peer pressure is part and parcel of the current culture of the Band.

3. Secrecy

The online survey results suggested that some of the Band's traditions have already gone "underground" in response to changes that have been made within the past few years. Approximately 36% of survey takers reported that some Band traditions are "hidden" so that activities are no longer witnessed by Band Directors.

4. Alumni Influence

The online survey revealed there was a mixed opinion regarding the Band's relationship with alumni. Overall, alumni influence is generally viewed favorably with an overall positive rating of 88%, but males notably perceive alumni much more favorably than females, and females believe more strongly that the Band is heavily influenced by alumni.

At least one survey taker felt that the alumni hold "an inordinate amount of influence and often promote inappropriate behavior," and gave the example that the veterans of his/her row discussed ending the practice of rookie names and tricks within the row but ultimately decided against doing so because the row members were concerned about disappointing the alumni, "particularly those who provided meals during the season." Another survey taker also commented that alumni "are against making changes" and that it causes "tension."

5. Offensive, Embarrassing, and/or Sexually Explicit Behavior

Survey takers stated that both Band Directors and Squad Leaders created a climate in which sexual harassment and sexual assault are not tolerated, though survey takers were less positive about the Squad Leaders than the Directors. Survey takers did report that both Band Directors and Squad Leaders created a climate that encouraged the reporting of sexual harassment and assault.

Band members cited that the Directors and Squad Leaders “will do whatever they can” to ensure that “everyone is safe” in the Band and try to prevent “offensive natures” that could arise.⁸⁷ Multiple Band members reported that any harassment or assault of another Band member “would never have been tolerated” in their row. Similarly, Band members stated that inappropriate behavior was, to their knowledge, “dealt with appropriately.”

Only 4% of those completing the survey noted that they had personally been assigned an “offensive, embarrassing or sexually explicit nickname.” However, 24% of survey takers stated that they had “witnessed activities that involve offensive, embarrassing or sexually explicit behaviors.” Additionally, 22% of survey takers reported that they had been provided or seen written materials that contained disparaging materials about individual Band members.

Approximately 7% of Band members stated that they were told “sexual stories or jokes that were offensive” sometimes, often, or very often. One survey taker noted that there were “constant sexual jokes” within the Band, but stated that such behavior was also present in high school bands. Other survey takers remarked that Band members were “plagued” by a connection to “outdated and no longer tolerable” traditions” and “want to be role models on the field but fail to carry themselves” as role models off the field. Another survey taker commented that Band members have a tendency to joke about, ignore, or “shove[] under the rug” large issues. Yet another survey taker stated that because “so much of the organization and execution” of the Band’s functions “are delegated to students,” it can create “a number of problems,” including having Squad Leaders that are not willing “to stop inappropriate behavior.”

In the individual comments, some survey takers reported that they found rookie names to be “offensive” and/or “suspect.” One survey taker stated that he/she “found many rookie names to be offensive,” but explained that “the meaning behind rookie names” was often “secret to band leaders or even the person with the nickname.” Another survey taker stated that he/she was “moderately concerned with the overtly offensive ‘rookie’ names.” Yet another survey taker stated that although the “first-year tricks” are funny, he/she was not sure “if the people doing them actually want to do them.” Some survey takers advocated for the elimination of rookie names and tricks while others suggested that they could be kept non-offensive.

Multiple survey takers advocated for cleaning up potentially offensive traditions. One survey taker stated that he/she would like to see Band members be “paragons of respect for others.” Another survey taker wanted to take “every trace of offensive, explicit, or sexual comment/action/innuendo” that has been noticed and “nip it in the bud immediately.”

⁸⁷ One repeated negative theme in the Band members’ responses to the cultural survey questions, however, was that they felt the Directors did not treat the Athletic Band as well as the Marching Band and that Marching Band members often looked down on the Athletic Band members.

6. Alcohol Use and Abuse

Approximately 27% of the survey takers viewed alcohol abuse as a problem within the Band. Additionally, approximately 34% of survey takers believed that alcohol use in the Band has stayed the same or become more prevalent since they made the Band. Numerous survey takers commented that alcohol abuse and “drinking rituals” were of concern, though many also highlighted that alcohol use and abuse was a concern throughout the University. One survey taker flat out stated that he/she “did not enjoy the drinking” in Band, while another characterized the Band as “a bunch of college kids who like to get drunk.” Yet another survey taker stated that the Band had “chronic and crippling alcoholism” within its ranks.

There appeared to be a contradiction as to whether survey takers felt that Band members used and abused alcohol on “Band time.”⁸⁸ One survey taker noted that Band members’ drinking was “never on band hours,” while another noted that there was extensive “alcohol use before and after” Band events and that “students showed up to events drunk.”

Some survey takers advocated further restricting alcohol use and abuse by Band members, including implementing a “zero-tolerance or a three strike policy” and eliminating the use of alcohol on away trips. Two survey takers even went so far as to suggest a Breathalyzer test for Band members prior to performances.

7. Training

Training provided to the Band and written policies received less than favorable results from the survey takers.⁸⁹ Fewer than 54% of those surveyed recalled receiving any training regarding sexual harassment or sexual assault, prior to 2014.

Only 50% of those surveyed recalled receiving reference materials regarding sexual harassment and violence. Further, 17.8% of survey takers exhibited some degree of confusion about the University’s formal policies and procedures addressing complaints of sexual harassment and sexual assault. Additionally, only 63% to 67% of the Band members felt the sexual harassment and assault training provided to the Band was effective.

While most of the survey takers had a good understanding of the University reporting procedures for sexual assault, actual use of those reporting procedures was reportedly very low. Survey takers also reported that while a 94% majority were willing to get help and resources for a victim of sexual assault, and a 90% majority were very or moderately likely to report other students who engaged in

⁸⁸ The University’s position is that the Band’s *Standards of Behavior for Members of The Ohio State University Marching Band* extend to all on- or off-campus conduct and behavior and draws no distinction as to whether the behavior takes place during sanctioned or unsanctioned band events or non-band events, nor does it matter whether the student is wearing the band uniform at the time of the prohibited behavior or conduct.

⁸⁹ Survey takers were specifically asked about their experiences with training and reference materials prior to the 2014 Band season.

unwanted sexual behaviors, approximately 16% of survey takers reported that personal loyalties were likely to interfere with the reporting of a sexual assault or a sexual harassment.

Many survey takers advocated for “additional mandatory” training on sexual assault and harassment and alcohol use and abuse for not only the Band and Band Directors, but all University organizations and athletic teams. A number of survey takers remarked that the University needs to recognize that the issues within the Band “are present in dozens of other student organizations” and that treatment of the Band needs to be “equal” to other on-campus organizations.

Fewer than 50% of those surveyed recalled receiving any training regarding alcohol abuse prior to 2014, though those that did remember the training found it to be 77% effective. At least one survey taker believed that the training the Band received on alcohol use and abuse helped the Band take “huge strides” in a more positive direction. Additionally, approximately 33% of survey takers stated that alcohol use in the Band had stayed the same since they joined the Band, while 1% reported that it had become more prevalent.

Survey takers expressed a preference for training “at the beginning of the season that is planned in advance.” Survey takers also advocated for better training, citing that the training they had received through the University previously was “ineffective.” Another survey taker remarked that training needs to be given in an informational manner, rather than an accusatory one. Survey takers also recommended having “counselors and advisors” for Band members to utilize throughout the Band season, or providing the Band with a Compliance Officer.

Survey takers advocated for training that provides very clear standards. As one survey taker put it, “someone needs to set a definitive line so that we know what is acceptable behavior.” Some survey takers also recommended coupling training with “actual consequences” for policy violations. Survey takers recommended “consistent and firm” punishment.

Survey takers also exhibited frustration with the University for what they perceived as a lack of University contact with the Band Directors regarding training. Survey takers called on the University to be more “proactive” with training instead of the Band Directors “having to seek out training for alcohol abuse, sexual harassment, Title IX, etc.”⁹⁰

Survey takers also highlighted the need to provide training to Squad Leaders as “so much of the organization and execution” of the Band’s functions “are delegated to students,” which can “create[] a number of problems,” including having Squad Leaders that are not willing “to stop inappropriate behavior.” One survey taker recommended instilling in the Squad Leaders “the knowledge of

⁹⁰ It is the Director’s responsibility to seek training for the Band. See the Cultural Assessment, Section D regarding training.

hazing and sexual harassment” and “the idea that some traditions” which could be perceived as offensive are not necessary.

I. Task Force Observations: Cultural Review

Based on the extensive interview process, responses to the online survey, and a thorough document (and video) review, the Task Force found that the Band generally is a positive and historic institution within the University. Serving as an ambassador, it has attracted students to attend the University, helped raise funds, contributed greatly to the fan experience at sporting events and generally helped to positively brand The Ohio State University.

Among Band members themselves, it has been generally a positive, life-shaping experience—affording them life-long friendships, teaching leadership and decision-making skills, as well as the discipline needed to address the obstacles and problems they will encounter in their lives.

The Band staff’s focus on performance excellence on the field, however, has led to a lack of focus on Band conduct off the field. Decades-long traditions and behaviors which have long outlived legal, University, and societal approval have been permitted to thrive in an organization that has been removed for decades from appropriate University oversight.

The Band Director and his staff are responsible for these still-maturing young adults. As in any organization, leadership at the top of the organization must set strong expectations of behavior, articulate them clearly, model them consistently, and discipline to them appropriately.

In any organization, and particularly with young people, where rules are unclear and consequences for violations of those rules are inconsistently applied, those to be governed by them are left without clear guidance. Where inappropriate behavior is tolerated by leaders, a mixed message is sent, particularly with young adults experiencing the new freedom of college life. It is critical that the Band Director and staff recognize this important responsibility of leadership to ensure excellence in all areas of the Band and to protect these young adults who depend upon them.

Specifically, the Task Force makes the following observations:

1. Squad Leaders

- Squad Leaders are an important cog in the Band hierarchy. As veteran members of the Band, they teach and reinforce the discipline, accountability, and commitment to excellence within the row structure and the Band as a whole.
- Squad leaders are required to assume a great amount of responsibility with respect to monitoring musical and marching performance of their rows.

- The role of Squad Leader is a remarkable opportunity for students to develop strong leadership, decision-making, and problem solving skills, and to serve as a role model for those who follow them.
- Given the importance of Squad Leaders to the Band itself, and the daily interactions with members in their row, Squad Leaders are in a unique position to carry on the traditions of the Band, both positive and negative.
- Almost every Band member interviewed, whether current or former, agreed that the quality of their experience in the Band was highly dependent on the Squad Leaders in their row. Accordingly, Squad Leaders must be carefully selected, properly trained, and consistently reviewed to ensure that there is no abuse of this critical role.
- Many Band members interviewed by the Task Force indicated that membership in the OSU Marching Band has been a lifelong dream. They have chosen their instruments, attended clinics and band camps, all in preparation to fulfill this dream. This places great responsibility on Squad Leaders and the directing staff to ensure that this lifelong dream does not make members, particularly new members, susceptible to “going along” with otherwise objectionable behavior masked as tradition and rites of passage into the Band as a price of being an accepted member of the Band.
- Squad Leaders have been traditionally held accountable for the musical and marching performance of their row members on the field, but they have not been accountable for their row members’ conduct off the field. Thus, historically, Squad Leaders have been able to endorse and encourage behaviors and traditions that violate University and Band policies without intervention by the Directors.
- Because Directors have largely abdicated responsibility for ensuring appropriate personal behavior of Band members, these students are left with no staff or leadership supervision of personal behavior; rather, Band members are left with the substituted judgment of Squad Leaders who are students themselves, lacking the experience, training, and perspective to adequately police other Band members’ behavior—or their own.
- Squad Leaders are in a unique position to stop hazing and inappropriate behavior, reinforce positive traditions, and end negative traditions. They help shape row culture. While they strive for excellence on the field, they have not insisted on excellence off the field. This is largely the fault of Band directing staff, who have not set or modeled these standards, nor consistently disciplined to the standards or trained the Squad Leaders regarding these expectations.

2. Band Traditions & Behavior

- Leadership begins at the top of an organization. Strong standards have neither been enforced nor modeled, nor have Band members been appropriately disciplined for inappropriate behavior.
- The giving of rookie names has been a long-standing tradition in the Band. Overall, there were roughly 400-500 Band members between 2009 and 2014. The Task Force is aware of many of these rookie names, but not all of them. Of the rookie names the Task Force knows, approximately 40 are clearly offensive, demeaning, or violative of the laws and regulations governing the Band. It appears to the Task Force that certain rows in the Band are historically (but not solely) responsible for perpetuating the tradition of particularly offensive rookie names.
- Although Band members described Rookie Names and tricks which would be, in any other context, offensive and demeaning, the overwhelming number of members did not find them to be problematic. Indeed, many of those who initially bristled at their assigned, overtly sexual, demeaning, or offensive name ultimately came to embrace it. It was part of the entrance fee to being a Band member.
- When asked by the Task Force, many Band members agreed that the rookie names and tricks would not be appropriate in the workplace, but claimed that they were acceptable in the Band.
- Certainly, the Directors cannot be held accountable for knowing every objectionable or offensive rookie name or trick, but they clearly knew most of them through introductions at Fesler Night and through usage at Band practices, and they did little to prevent them. By failing to do so, the Directors ratified the tone that pejorative and offensive names were acceptable. This was a missed opportunity by the Directors to educate Band members and to demonstrate the standard of excellence the Band holds dear.
- On Fesler Night, the Band's traditions night where new members are introduced to the Band's history and traditions, the Directors missed an opportunity to inform members that should they face issues they needed help in addressing, not only is the Band family available to help, but there are a great many University resources outside the Band to provide support and guidance.
- The use of videos at Fesler Night made by each row is not inherently bad. Indeed, it is a clever and entertaining way to introduce new members to their rows and to build unity and an esprit de corps among the entire Band. That said, many of the Fesler Night videos that the Task Force reviewed covering the past five years are remarkably offensive. These new members, having been in the Band for just days, are seeing them as a captive audience. The presence of Band directors and staff at their showing demonstrates loudly that

this behavior is tolerated, sending a very mixed message regarding expected student behavior. Taking on the air of a mid-twentieth century stag party, many of these videos are in direct conflict with the Band's standard of excellence and violate the Band's written Standards of Behavior and PnPs.

- The idea of Midnight Ramp is an inherently charming tradition that the Band has long prized. By eliminating the negative component of performing the Midnight Ramp in underwear or inappropriate clothing, this tradition can effectively serve to strengthen camaraderie and team spirit.
- At the Band Dance, members traditionally vote on certain qualities of fellow Band members. Their votes, although somewhat disguised, are on the breasts and buttocks of various members. Directors are aware of this tradition, which sets a poor example and is violative of University and Band policies.
- The Band's chain-of-command reporting structure, as well as its tendency toward secrecy, contribute greatly to the Band's insularity. By not subjecting the Band's traditions to outside scrutiny, the Band members are missing a vital opportunity: understanding that certain traditions and behaviors are no longer acceptable, particularly in the workplace. Regrettably, the hothouse environment has allowed Band traditions to grow in direct contradiction to its goal of excellence.

3. Alcohol Use and Abuse

Alcohol use and abuse is a college-wide issue.⁹¹ It is a very serious issue for universities around the country. The majority of egregious problems the Band has faced in the past five years relate to alcohol abuse. The Band has specific policies which have not been made clear to Band members and which have not been consistently enforced.

- By commenting at the close of Make the Band Night that alcohol will be present that evening and that first-year members should not do anything that makes them uncomfortable, the Directors demonstrate a tacit understanding of the events that will follow that evening after Make The Band Night concludes. The Director's failure to specifically warn underage first-year members not to drink or remind members not to serve alcohol to underage members was a missed opportunity to reiterate the Band's PnPs, University policy, and the law. Again, Band leadership has sent mixed messages regarding the Band's standards of behavior and has tacitly condoned the inappropriate behavior.
- The warning given at Make the Band Night regarding alcohol and other hazing activity ("you don't have to do anything you don't want to") seems to be given as if it is an inoculation against peer pressure. With young people, most of whom have wanted to be in the Band since they were very young, this

⁹¹ In the 2014 National College Health Assessment, nearly 43% of OSU students surveyed reported they had consumed five or more drinks in one sitting "at least once" in the previous two weeks.

provides little defense against peer pressure on first-year members (as well as other members) who want to fit in and be accepted by the rest of the Band.⁹²

- There is peer pressure to drink alcohol even when non-alcoholic beverages are available. Because the consequences of alcohol abuse can be dangerous and life-changing, and because these members are subjected to a college culture where alcohol remains a primary source of entertainment, it is another lost opportunity for the directors to provide training on the use and abuse of alcohol for the members of the Band.
- Directors regularly failed to discipline Band members who violated the Student Code of Conduct and the Band’s PnPs, and when discipline did occur, it was inconsistent. For example, the new member who drank so much alcohol prior to the 2009 Midnight Ramp that he had to be transported to the hospital for alcohol poisoning was suspended from marching for two weeks, but multiple Band members who were known to have consumed alcohol to excess at that Midnight Ramp were never punished.⁹³
- Band Directors were aware of illegal alcohol use and its abuse as evidenced by their warning to members re: “not having to do anything you don’t want to do,” the 2009 Midnight Ramp incident, and sexual assaults arising out of alcohol use and abuse. They provided little specific, in-depth training on these issues for the Band as a whole.
- The Band Director was specifically told of a pep band event in northern Ohio in which pep band members, regardless of age, were given many rounds of drinks and were also given overnight accommodations stocked with free alcohol. No evident discipline occurred for the Band members involved.
- The Band Director was aware of at least two sexual assaults involving Band members occurring as a direct result of abuse of alcohol.
- The Band Directors were aware that excessive drinking occurred at the Band Dance, which they attended. Alcohol abuse was so endemic to this event that of the five years and four Band Dances that this report covers, the Band was not permitted to return to three of the Dance venues⁹⁴ due to the damage to the venue site.

4. Training

- Many Band members who were interviewed vehemently disputed the right to discipline members for inappropriate behaviors committed while on “personal time” off-campus or out of uniform. Uniformly, those interviewed argued that the application of the Code or the PnPs was wrong: they were not on “Band

⁹² In interviews, many Band members said that they consumed their first-ever alcoholic drink at a Band party, or only felt comfortable abstaining from drinking if their Squad Leader did.

⁹³ See Administrative Oversight Review, Section E, for an in-depth discussion on this topic.

⁹⁴ See footnote 80.

time,” they were on “personal time.” Clearly, the Band directors failed to properly—and in enough depth—train these members as to requirements and consequences regarding their behavior while a member of the Band.⁹⁵

- Band members and staff clearly do not understand what constitutes hazing, sexual harassment, and other inappropriate behavior. Band members interviewed by the Task Force consistently complained about not knowing that certain activities were illegal or in violation of Title IX, the Code, or the Band’s PnPs.
- Band members consistently blamed the University for failing to educate them regarding hazing, sexual assault, Title IX, and other policies and laws.⁹⁶
- In many instances, Band members indicated if they needed help or advice, they would follow their Band chain-of-command. Many appeared to be unaware of the many University resources available to help them. This was a missed training opportunity to provide essential information needed by all members of the Band.

5. Alumni Influence

- Band alumni have a strong, active, and very positive tradition of supporting current Band members, both financially and emotionally, often providing food and housing during practices and Band trips.
- Most members who were interviewed by the Task Force expressed gratitude to the alumni who provided support to them: gift cards for food, accommodations, financial support, and sharing of the Band’s history were all gratefully acknowledged.
- Some in the Band who were interviewed by the Task Force, however, expressed concern about some alumni resistance to change in what those alumni viewed as appropriate Band traditions, often encouraging current Band members to continue inappropriate traditions. They also acknowledged that some alumni engaged in serving them alcohol (sometimes to deliberate excess) despite their age.

6. Band Performance & Scheduling

- It was clear through Task Force interviews that Band members have been given an increasing number of performance obligations, and a concomitant increase in travel. In any given week, Band members must compete for a spot, learn a halftime performance (including marching and music), attend community service events, attend Pep Band events, attend alumni events, do music and uniform checks, travel to/from a game (or attend a Skull Session),

⁹⁵ The University’s position is that the Band’s *Standards of Behavior for Members of The Ohio State University Marching Band* extends to all on- or off-campus behavior or activities.

⁹⁶ The responsibility of organizing and administering appropriate training at the University level typically falls on the Director of any given program, not on the University.

and perform a halftime show. All of this must be accomplished on top of the Band member's other University and class obligations. The high stress and exhausting nature of being in the Band can lead to students improving their time management skills, but can also lead to students blowing off steam in the form of inappropriate behavior and increased alcohol consumption.

- Last year, the Band participated in 28 performances including seven home games, four away games, two post-season games, five internal University appearances, and ten external appearances. The Band performed every week and sometimes multiple times per week, from August 24, 2013, through December 6, 2013.⁹⁷ The amount of time required to participate in the Band far exceeds the typical 2-credit class requirements, and it can interfere with the Band members' other responsibilities, including other University classes, part-time work, or time with family.⁹⁸
- The performance requirements of the Band require better management of their nutrition and hydration.
- With increased demands on the Band, more logistical and management support is needed.
- In the wake of national acclaim and as leadership in the Band has focused on Band performance, it has become increasingly disconnected from student behaviors that rightly require oversight. The Marching Band is a large, co-educational organization whose members spend a great deal of time together, including practicing, performing, and traveling together. By failing to set and discipline to high standards of conduct, the Directors failed their students and missed opportunities to model excellence in conduct, as they have done in performance.
- There appears to be an overall failure by members to recognize or remember that Marching Band is an academic class. Band members are subjected to peer pressure (although they may not recognize it as such) to participate in inappropriate behaviors or traditions. New members are particularly susceptible to this, potentially because of their need for acceptance – once in the Band, they often set aside personal reservations or standards of behavior in order to be one of the group.

⁹⁷ Appendix V: 2013 Performance Schedule.

⁹⁸ By way of comparison, NCAA rules generally limit athletes to four hours per day, 20 hours a week, and a minimum of one day off per week.

V. Administrative Oversight Review

The Task Force’s second charge was to examine the administrative oversight of the Band. For this review, the Task Force interviewed more than 30 University employees and stakeholders regarding their interactions with the Band. All noted the strength of the Band as an organization, its role as an iconic brand for the University, and its unique needs in comparison to other bands within the School of Music. When discussing the oversight and organization of the Band, common themes developed including: the strength of the Band leadership, notably the Band Director; the funding received by the Band; the role of the Band within the University structure; and the University oversight for the Band.

A. Structural Accountability

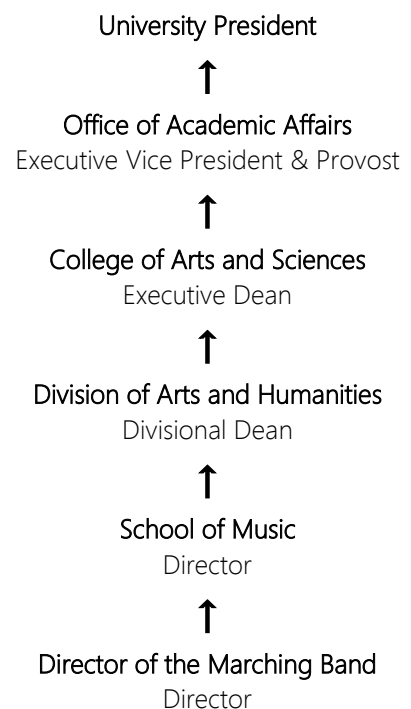
1. The Band

Since 1925, the Ohio State University Marching Band has resided within the University’s School of Music, and the Director of the School of Music has provided support to, and oversight of, the Director of the Marching Band (“Director of the Band”). As an academic unit, the School of Music is organized within the Division of Arts and Humanities in the College of Arts and Sciences.⁹⁹ The Division of Arts and Humanities, created in 2010 following the unification of five University colleges into one College of Arts and Sciences, is led by a Divisional Dean who reports to the Executive Dean for Arts and Sciences. The College of Arts and Sciences reports directly to the Office of Academic Affairs led by the University’s Provost.

a) *Band Leadership*

The structure of Band leadership has remained relatively static since the 1970s, with additional positions added to support the musical needs of the Band, but not the growing

Marching Band Organization



In 2010, the College of Arts and Sciences was reorganized to unify the five colleges within the College of Arts and Sciences into one college with three divisions. This change led to the reorganization of University reporting for the School of Music.

Source:
http://artsandsciences.osu.edu/facultystaff/unification/intermal_reviewdocs (last visited November 12, 2014)

⁹⁹ Appendix W: College of Arts and Sciences Organizational Chart. This can also be accessed at <http://artsandsciences.osu.edu/about/administration>.

business and administrative needs. The Task Force commonly heard from current and former Band students and University administrators that the Band was understaffed. As the Task Force examined the oversight for the Band, it became apparent that the success of the Band and its relationship with the School of Music shaped the culture of the Band while also separating the Band administratively from the rest of the School and the University.

When the Department of Music was first created in 1925, the role of Director of the Band was one of three conducting responsibilities assigned to a sole professor within the Department.¹⁰⁰ In 1952, upon the departure of the conductor for the Concert Band and Marching Band, then-Director Eugene Weigel divided the conductor position into two positions, with one person serving as Director of Concert Bands and another serving as Director of the Marching Band.¹⁰¹ This division has been cited during many interviews as significantly shaping the strained relationship between the Band and the School of Music.

(1) Band Director Position

The position of Director of the Band is a prestigious position at the University. The Directors have led the Band to great success and national prominence by, for example, creating and directing innovative performances and establishing many enduring Band and University traditions.¹⁰² Serving as the primary leader of the Band, the Director's responsibilities are broad in scope and consist of organizational responsibilities for the Band, conducting, personnel management, and policy oversight.¹⁰³ Further, as the popularity and critical acclaim for the Band have increased, the Director of the Band has increasingly become a more high profile position, which has added greatly to the administrative and managerial demands placed on the Director and the Band itself.

The Director of the Band has remained a position separate from the Director of all other bands within the School of Music. Only five individuals—all of whom were male—have served in this position since 1952,¹⁰⁴ and the last three Directors of the Band served for a

¹⁰⁰ This and more information regarding the history of the bands within the School of Music can be found at: <http://music.osu.edu/bands/history> (last visited November 12, 2014).

¹⁰¹ See Footnote 100.

¹⁰² For example, Director Jack Evans is cited for arranging the chimes introduction to Carmen Ohio at the end of every football game and Director Charles Spohn introduced the Band's arrangement of "Hang on Sloopy." This information and additional information on the important contributions of the Band's Director can be found at <http://library.osu.edu/blogs/archives/2011/09/08/passing-the-directors-baton/> (last visited November 12, 2014).

¹⁰³ For a full discussion of the duties of the Director, please see the section on the History and Structure of the Band.

¹⁰⁴ Jack O. Evans (1952-1963); Charles O. Spohn (1964-1969); Paul E. Droste (1970-1983); Jon Woods (1983-2011); and Jon Waters (2012-2013).

collective span of forty-two years.¹⁰⁵ This time period encompasses not only the introduction of women to the Band and the expansion of Band membership, but also the greatly increased media attention the Band has received for its performances.¹⁰⁶

In addition to conducting the Band, the Director of the Band has traditionally held a faculty or staff position within the School of Music. The Director is responsible for teaching and grading the students who participate in the Band. By establishing the position within an academic unit, the University is able to grant up to two hours of class credit through the School of Music for participation in the Band. The inclusion of the Band within the School of Music is common among peer institutions, and currently all institutions within the Big Ten Conference have a marching band organized with the same or comparative oversight structure.¹⁰⁷

(2) Band Director Duties

The Director of the Band is organizationally situated under the position of the Director of Bands; however, the Director of the Band currently reports directly to the Director of the School of Music. Although this reporting structure became official upon the hiring of a new Director in 2012, the prior Director of the Band had informally institutionalized this structure during his tenure. By organizing the structure in this way, the Director of the School of Music took on increased responsibilities for the oversight of the Band, including annual employment reviews and mentorship duties.

The duties of the Band Director are not limited to publicly conducting the Band, but also include administrative oversight and management of the Band. As one Band director told the Task Force, only 10% of the job occurs on the podium. The duties for the Director of the Band, include, but are not limited to: overseeing “the musical preparation, visual design, instructional methodologies, and personnel decisions of the Band;” collaborating “with the School of Music faculty and staff” when requested and to support “mutually beneficial projects and

¹⁰⁵ See Footnote 104.

¹⁰⁶ Comparatively, the University has had eight persons serve as University President and four persons serve as Interim University President during this same time period. Information regarding past presidents can be found at: <http://president.osu.edu/presidents/> (last visited November 12, 2014).

¹⁰⁷ For example: The University of Michigan (http://www.music.umich.edu/current_students/perf_opps/bands.htm); the University of Wisconsin (<http://badgerband.com/who-we-are/>); the University of Illinois (<http://bands.illinois.edu/faculty-and-staff/>); and, the University of Maryland (http://www.music.umd.edu/ensembles/bands/marching_band) (all last visited on November 12, 2014).

fundraising;” upholding and protecting the Band’s “traditions for excellence;” and advocating “for student academic needs.”¹⁰⁸

The position of Band Director has remained a relatively isolated position within the School of Music. The last five directors held prior positions within the School of Music before serving as Director of the Band,¹⁰⁹ and, as one interviewee noted, the prior three Directors of the Band each served as Assistant Director for the Band before receiving an appointment as Director. The insular nature of the Band was frequently cited by those interviewed as a source of contention among the School of Music and the Band, which was exacerbated by personality conflicts among the School of Music faculty members and Band leadership.¹¹⁰

The conflict between the School of Music and Band leadership was well known and raised by students and administrators during interviews with the Task Force. Citing back to the 1980s, the School of Music was perceived by many as jealous over the funding and attention that the Band received, while viewing the Band as inferior musicians to those performing within other School of Music ensembles. This perceived jealousy, in combination with total authority granted to the Director of the Band in 1952, also contributed to a dysfunctional relationship between the leadership of the School of Music and that of the Band.

For example, when the new Director of Bands, a position with oversight of all bands at the University, started in 1998. In an effort to learn more about the operations of the Band, the Director of Bands attended a Band rehearsal, according to persons interviewed by the Task Force. Following his attendance, the then-Director of the Band, Dr. Woods, spoke with the then-Director of the School of Music and requested that the Director of Bands no longer attend his practices. This resulted in no additional attempts by the Director of Bands to contact or interact with the Band, including the discontinuation of his directing the “Star Spangled Banner” at University football games.

The division led the Band to function primarily without operational input or true oversight from the School of Music until the appointment of Mr. Waters in 2012.

¹⁰⁸ Appendix X: Jon Waters Offer Letter, January 30, 2013.

¹⁰⁹ See Footnote 100.

¹¹⁰ This conflict was widely known by University faculty, staff, students, and community members interviewed, though the root cause of the conflict differed. Some cited the School of Music’s jealousy over the Band’s publicity and budget, while others cited a complete shutting out of the University Director of Bands from interaction with, and oversight of, the Band.

(3) Band Director Appointment

Since 2009, the Director position for the Band has been held by two directors. Dr. Woods began his tenure as the Director of the Band in 1983 and held the position until his retirement in November of 2011. Although Dr. Woods retained the title of Director until his retirement, many interviewees noted his failing health in later years and that significant administrative responsibilities had been assumed by the then Assistant Director, Mr. Waters.¹¹¹ In 2012, the University named Mr. Waters Interim Director of the Band, and a search committee was formed to find a permanent Director.

Many of those interviewed by the Task Force stated that although the search process was discussed, they felt that the next Director of the Band should be Mr. Waters. Unlike his predecessors, though, Mr. Waters did not hold a doctorate, historically a prerequisite for the position, the absence of which would have prevented him from qualifying for the position. However, before the search committee met, the Band performed its renowned “Video Game Show” during the Ohio State versus Nebraska football game in October of 2012. This performance garnered massive national media attention, including segments during national morning shows, and made the Band a YouTube sensation. Four days following this performance, the Provost and Divisional Dean for Arts and Humanities named Mr. Waters the Director of the Marching and Athletics Bands.

Although the appointment occurred outside of a structured search process and some noted that they would have preferred a search to be conducted, many administrators interviewed stated that Mr. Waters was the right person for the job. Following his appointment, increased collaboration and coordination between the Band and the School of Music occurred as Mr. Waters worked directly with members of the School of Music who had been isolated by the previous Director of the Band. The opening of lines of communication led by Mr. Waters began increased collaboration between the School of Music and the Band that had not existed during prior years. However, many of the doors remained locked between the University and the Band, and although some relationships improved, the Band remained largely isolated from the University oversight process.

¹¹¹ Many administrators and students interviewed by the Task Force stated that although Dr. Woods held the position of Director from 2009 to present, Mr. Waters was the de facto Director of the Band, attending University meetings and managing all other Band matters on behalf of Dr. Woods.

b) Marching Band Staffing

In addition to the Director of the Band, full time staff, graduate assistants, and student staff provide support to the Band. The staffing for the Band is more fully discussed in the History and Structure of the Band section; however, a brief discussion is included here because the staff's duties include assisting the Band Director with oversight of the Band.

(1) Directing Staff

In addition to the Director of the Band, the Band is traditionally staffed by two other full-time employees. The Associate Director for Marching and Athletic Bands and the Assistant Director for Marching and Athletic Bands provide direct, day-to-day support to the Band Director on a variety of tasks, including coordinating the activities of the Band, directing the music for the Band, and arranging music and marching for Band performances. Additionally, the Band receives support from a part-time percussion instructor.¹¹²

During the five-year period reviewed by the Task Force, the Band staff remained relatively static in organization and size. Only one female staff member—appointed in 2014—served on the University staff for the Band¹¹³ and, as a result of the Title IX Report, a School of Music staff member was assigned to provide Title IX guidance for the Band. These duties include serving as the internal Title IX point of contact for Band members, coordinating training, answering Band member's questions, and being available to discuss any Band member concerns. In 2013, the Band also added a much needed Business Operations Manager to manage funds and to handle the Band's increasingly complex administrative and logistical requirements.

Since the firing of Mr. Waters in July of 2014, the leadership of the Band has been temporarily restructured for the 2014 season while the University conducts a search for the next Director of the Band.

(2) Graduate Assistants

The Band also receives staffing support from two to three graduate assistants on an annual basis. Appointed by the Director of the Band with no input from the School of Music, five of the six graduate assistants from 2009 to 2013 had previously been members of the Band.¹¹⁴ The duties of the graduate assistants

¹¹² During the 2014 season, a part time Drum Major instructor was also added to the staff.

¹¹³ The Physical Trainer for the Band, a volunteer position, has also traditionally been held by a female.

¹¹⁴ Through its interviews and its review of documents, the Task Force became aware that the Band has had at least two issues with hiring staff and graduate assistants who were actively dating Band members. It is a violation of the University's

include, but are not limited to, assisting Marching Band and Athletic Band rehearsals and with pep bands, and assisting with the writing of drills and music. Graduate assistants traditionally hold an appointment with the Band for two years¹¹⁵ and, due to the lack of rotation, one interviewee noted that some graduate students obtain a master degree in music education without ever having the opportunity to work with or conduct the Band.

(3) Student Staff

The University staff for the Band is also supplemented by student staff, comprised of 12-14 University students enrolled in the Band course who are not marching members of the Band. The role of the student staff is “to assist with the day-to-day, behind-the-scenes work” of the Band.¹¹⁶ The student staff travels with the Band to all away games and other events and its members are considered full, uniformed members of the Band.

The student staff is comprised of students who voluntarily join the Band staff. No solicitation for student staff applicants is made at the University-level, through the work-study program or other postings, but when an opening occurs, an announcement is made to the Athletic Band and members can contact the Band office for an application.

Student staff roles include, but are not limited to: Student Sales Coordinator, Student Administrative Assistant, Student A/V Coordinator, and Student Instrument Coordinator.¹¹⁷ Student staff members are required to be at the Band Center daily at 3:00 PM, an hour before Band rehearsal begins, and remain at the Band Center for half an hour after rehearsal ends.¹¹⁸

A number of interviewees noted to the Task Force that the responsibilities performed by the Band staff were essential to operation of the Band. Further, most believed that many of these

sexual harassment policy to employ an instructor or a graduate assistant in a position where they will have any oversight responsibility over someone who they are dating. In one case in 2012-2013, a member of the staff was dating a Band member (who he eventually married) for whom he had direct oversight. This relationship existed for an extended period of time, and according to multiple interviewees, both the Band members and the directing staff were aware of the relationship, yet it was not reported to Human Resources until after the Marching Band season ended. After the relationship was reported, the staff member was no longer permitted to work with the Band. In another situation in 2013-2014, a relationship between a graduate assistant and a potential Band member was identified before the graduate assistant was hired and accommodations were made through Human Resources to ensure that the graduate assistant had no oversight over the potential Band member.

¹¹⁵ Doctorate students hold three year appointments.

¹¹⁶ This information and additional information regarding the staffing of the Band can be found at <https://osumarchingband.com/staff/> (last visited November 12, 2014).

¹¹⁷ See Footnote 116.

¹¹⁸ Additional information regarding the staffing of the Band can be found at <https://osumarchingband.com/staff/> (last visited November 12, 2014).

essential tasks should be carried out by a full-time staff member with greater availability than current student staff, who are available for only approximately three hours per work day or fifteen hours a work week and when the Band performs, and all work at the same time of day. For example, a staffing document prepared in 2014 by the Band Operations Manager noted that one part-time student oversees the Band's Instrument Office, which houses approximately 500 musical instruments valued at close to \$2 million and uniforms valued at \$500,000.¹¹⁹

Some current and former Band members noted to the Task Force that the most time consuming part of the Band's year was instrument check-out and check-in during summer session and the annual alumni band performance. Run solely by student staff, the check-out and check-in of instruments generally occurs during windows of time during which student staff are available, typically before the start of practice. The short time window usually leads to a backlog and lines for Band members attempting to check-in or check-out instruments.

2. School of Music

a) Leadership

The Director of the School of Music is the leader of the School of Music and is tasked with oversight of the 38 undergraduate and doctorate degree programs organized into eight areas of study, including Conducting and Ensembles.¹²⁰ The Conducting and Ensemble area of study is where the University's approximately 29 band, choral, ethnomusicology, jazz and orchestra ensembles are currently organized.¹²¹ The Conducting and Ensemble area is led by the Director of Bands, who reports directly to the Director of the School of Music. As head of this area, the Director of Bands is assigned oversight for the University's Marching and Athletic Bands; however, the Director of the Band reports directly to the Director of the School of Music.

The University oversight for the Band shifted during the period of review analyzed by the Task Force with the reorganization of the College of Arts and Sciences in 2010. Since this reorganization, the School of Music reports directly to the Divisional Dean for the Division of Arts and Humanities. The Divisional Dean reports to the Executive Dean for the

¹¹⁹ Appendix O.

¹²⁰ The full list of the School of Music areas can be found at <http://music.osu.edu/areas-study> (last visited November 12, 2014.)

¹²¹ During the five years reviewed by the Task Force, neither of the two previous Band Directors served as faculty in the Conducting and Ensembles area. Instead, Dr. Woods held an appointment in the Music Education area, while Mr. Waters did not serve in either area because he was not a faculty member, although he did attend all Conducting and Ensemble area meetings as a non-voting member.

College of Arts and Sciences, who then reports to the Provost within the Office of Academic Affairs.

b) Accountability

One of the more striking aspects of the administrative oversight structure for the Band is that it is complex and lacks clarity. This is a failure of structure. For example, although the Band reports directly into the School of Music, according to one interviewee, the Band does not appear on an organization chart for the School of Music. While the Director of the School of Music performs the personnel evaluations and signs appointment letters for Band staff, the Director of the School of Music does not have any direct control over the Band Director or those working under the Band Director. Historically, no School of Music administrators have had daily interaction with the Band Director.

Further, the Director of Bands is assigned in his job description the administrative oversight for all University bands and ensembles, including the Marching Band and Athletic Band. However, actual oversight of the Band has been assigned to the Director of the School of Music. The purpose of providing the Director of the School of Music was twofold: first, anticipating the possible continuation of the personality conflicts between the previous Band Director and Director of Bands, this reporting structure was created to fix such issues by having the Band Director report directly to the Director for the School of Music.¹²² Second, by having the Band report directly to the Director of the School of Music, there was a belief that the School of Music would be in a better position to exert control and make any needed personnel decisions.

However, the lines of reporting remained unclear to those working with the Band and the School of Music. This lack of clarity regarding who has true working oversight over the Band and the division of duties and accountability between these positions has led to an absence of an administrator being assigned full responsibilities for oversight of the Band, other than the Director of the Band.

Although some interviewees noted that strides were being made in recent years for greater incorporation of the leadership of the Band into the School of Music, the Director of the Band continued to maintain significant autonomy from the School of Music, and several operational functions of the Band, including its budget, were divided across a number of University units.

¹²² What was not accounted for, however, was that Mr. Waters had been a student of the Director of Bands and had a good working relationship with him. In fact, many interviewees noted that Mr. Waters made efforts to repair the damage done to this relationship once appointed as Band Director.

B. Funding of the Band

Because the Band receives funding from three university units plus additional funds provided by alumni and other donors, the flow of funding and the benefits tied to this flow (such as scholarships and facilities), has shaped the relationship between the Band and the School of Music.

1. Band Budget

The Band's budget from 2009 through 2013 was provided by the School of Music and the Department of Athletics. Additional funds were also received directly by the Band from alumni donations and payments for performances. The Band received approximately between \$ 1.2 and 1.8 million annually appropriated by the Division of Arts and Humanities (through the School of Music), the Department of Athletics, and other funds.¹²³

Although the Band received funding from the Department of Athletics and the School of Music, the Task Force learned from interviewees that these departments did not have any control or oversight over the funds after they were provided to the Band. According to one interviewee, the funds for the Band were historically poorly managed and located within many different University accounts. The lack of management led to debates among the Band, the School of Music, and the Department of Athletics regarding which funds belonged to which source. One interviewee stated that because the Band had two sources of institutional funding, when one unit declined to provide funds, the Band would go to the other unit for the funds. This was further complicated by funds the Band directly received for performances.

Additionally, the Band Director traditionally managed the funds for the Band. With training in music education, not finance, the University found that the Band Director was ill-equipped to handle the complex budget of the Band. One interviewee noted that in a budgetary meeting, the Band Director seemed entirely unaware of the Band's carry forward funding when discussing his concerns with the Band's financial status and the need for additional funding. The University's frustration concerning lack of budgetary knowledge and the Band's traditionally unstructured style of managing its funds led the University to work with the Band on the development of a full-time position dedicated to managing the Band's funds and assisting with travel.

In 2013, acknowledging the additional finances required for the Band's travel and staffing, the Band and the University executed a Memorandum of Understanding (MOU), referenced by interviewees as the "Grand Bargain." Under this MOU, in addition to funding for permanent staffing, the University provides \$1 million in

¹²³ Comparatively, the School of Music received about \$10 million to \$12 million annually in general funds and other funds from the University.

financial support to the Marching and Athletic Band on an annual basis.¹²⁴ Funding is provided for operations by the College of Arts and Sciences (\$350,000), the Department of Athletics (\$350,000), and the Chief Financial Officer (\$300,000).¹²⁵

The MOU went into effect July 1, 2013 and will continue in force until June 30, 2017. With an increase in funds, the Memorandum of Understanding also outlines the travel schedule for the Band and Athletic Band and commits the Band to a number of annual performances, including:

- 8 home football games
- 8 Skull session performances
- 30 home men’s and women’s basketball games
- 15 home women’s volleyball games
- 15 home men’s ice hockey games
- 15 Olympic sports (includes additional conference and NCAA post-season tournament requests) and
- The spring football game

The increase in funding, provided in large part to cover Band travel costs, led to a significant increase in Band travel during the academic year, including attendance at more away games and additional event performances.

To assist with managing the Band’s increased budget and travel, funding sources were consolidated under the MOU to one fiscal organization within the School of Music in the College of Arts and Sciences. Additionally, the MOU required the hiring of a Business Operations Manager to “manage the administrative, fiscal and business operations of the athletics bands,” with the funding for the salary and benefits for this position divided evenly between the College of Arts and Sciences and the Department of Athletics.¹²⁶

2. Scholarships

Beyond the funding provided directly by the University for staffing and administrative needs, Band members also receive scholarships from the University. The scholarship funds received by the Band increased significantly over the last five years, almost doubling in both dollar amount awarded and number of recipients from the 2009-2010 academic year to the 2014-2015 academic year.¹²⁷

¹²⁴ Appendix Y: Memorandum of Understanding Between the College of Arts and Sciences, the Department of Athletics, the Chief Financial Officer, and University Advancement Regarding Support for the OSU Marching and Athletic Bands.

¹²⁵ Appendix Y.

¹²⁶ Appendix Y.

¹²⁷ Scholarships awarded increased from 74 to 136 and funds increased from \$77, 875 to \$143,400.

C. Facilities

Direct support of the Band from University donors has also led to the construction of new facilities for the Band. For example, the Joan Zieg Steinbrenner Band Center¹²⁸ opened in 2001 and remains a state-of-the-art facility occupied solely by the Band. Located near Gate 10 in the Northeast corner of Ohio Stadium,¹²⁹ the Steinbrenner Band Center contains the directing and administrative staff offices, a large Rehearsal Hall for the entire Band, smaller instrument practice rooms, locker rooms and showers, uniform and instrument storage rooms, and lounge space.¹³⁰ From select emergency exits, Band members are able to enter Ohio Stadium. The Band's academic class is also held in the Steinbrenner Band Center. Because of the lack of its physical proximity to the School of Music buildings, with the exception of music majors, a Band member does not have any interaction with the School of Music by participating in the Band.

Comparatively, Hughes Hall is home to the School of Music performing spaces and is located on the University's Main Oval. The building was constructed in 1943 and, according to interviewees, has remained in need of significant updates.¹³¹ Although Hughes Hall and Weigel Hall, where the School of Music's administrative suites are located, are slated to receive renovations, the differences in quality of rehearsal and performance spaces was reported to be a source of jealousy by the School of Music.

D. Roles of the Band

As the Task Force examined the administrative structure of the Band, two common and related questions were asked of all persons interviewed – what is the role of the Band, and where should it reside? The response to these questions, not surprisingly, differed based on the interviewee; however, three primary roles for the Band were identified.

1. Band as a Class

The Band is a class at the University with Band members required to enroll in Music 2205.01 and Band leadership employed as faculty and staff by the School of Music. Many of the interviewees stated that the School of Music is the natural home for the Band, as it is able to provide the musical instruction to the Band and, as an academic unit, can grant course credit for participation in the Band.

Additionally, some noted that because Band is a class within the School of Music, the School has the academic interests of the Band members in mind and could best assist the Band in creating a manageable practice and performance schedule for students. Many interviewees pointed out the Band's heavy performance schedule, including one who stated that the current schedule pushed the Band too

¹²⁸ Former businessman, former owner of the New York Yankees, and Ohio State University alumnus George Steinbrenner, III and his wife, Joan Zieg Steinbrenner, also an alumna of Ohio State University, pledged \$1.5 million dollars in 2001 to build the Joan Zieg Steinbrenner Band Center.

¹²⁹ In 1973, the Band rehearsal space moved from Hughes Hall to the space in the Ohio Stadium, where it has remained ever since. <https://music.osu.edu/about/history> (last visited November 12, 2014).

¹³⁰ Additional information regarding the Steinbrenner Band Center can be found at <https://osumarchingband.com/facilities/> (last visited November 12, 2014).

¹³¹ Information regarding the history of Weigel Hall and Hughes Hall can be found at <https://music.osu.edu/about/history> (last visited November 12, 2014).

much and was not fair to Band members who have other academic and personal responsibilities.

The Band is unique from other University ensembles in that the other bands are primarily composed of music majors, including some who are doctoral students in their instrument. As previously discussed in the profile of the Band section, Band members regularly major in engineering, psychology, and biology and do not plan to enter into a career in a music performance after graduation. Because the Band is not comprised solely of music majors, some interviewees questioned the ability of the School of Music to understand the unique needs of the Band and there was an overarching sense that the School of Music should provide services better tailored to the unique academic needs and schedules of Band members. Despite these questions, most interviewees acknowledged that the School of Music was the best unit to provide for oversight of the Band.

2. Band as Performers

Due to the increased popularity of and attention to Band performances, the Task Force examined the Band's role as performers on the field and at University functions. As previously discussed, since 2009, the Band's performance schedule has dramatically increased the number of performances per season. This includes not only increased pep band performances,¹³² but also increased full Band appearances at fundraising and University events. In addition, the Band performed at home football games and, under the new funding agreement ("the Grand Bargain") increased its travel for performances at away games.

The Band also maintains a close tie with the football team, performing during the halftime of all home games and, in the last year, traveling to an increased number of away football games. When asked where the Band should reside, some administrators and a significant number of current Band members stated that the Department of Athletics would provide the best oversight for the Band.¹³³

Frequently citing the support provided to the football team, including meal plans and study tables, members of the Band felt that similar assistance should be provided to them based upon their membership in the Band. Although Athletics provides approximately one-third of the Band's budget, few current members of the Band acknowledged the differences between the Band, a class within an academic unit, and the University's football team, an athletic team that generated approximately \$61 million in revenue in 2013.¹³⁴ Despite the Department of

¹³² One interviewee noted that during the 2013 Band season, Band members would perform upwards of three pep bands a week.

¹³³ Proper nutrition and hydration of the Band was frequently discussed during interviews with students and administrators, with many citing that the Band did not receive nutritious meals on Game Days or while traveling. The nutritionally inadequate meals provided to the Band were of particular concern to the former physical trainer of the Band. Further, upon learning that Band members were not fed following game, one administrator had pizza donated to the Band.

¹³⁴ Information regarding the revenue generated by the University football program and other university programs during 2013 can be found at <http://www.forbes.com/pictures/emdm45efmkf/9-ohio-state-buckeyes/> (last visited November 12, 2014).

Athletics lacking experience or ability to teach music or marching, it has great experience in organizing travel for students, providing compliance training and enforcement, and ensuring proper care and nutrition for its students.

Similarly, the Office of the President and University Advancement utilize the Band and Band performances as outreach to prospective students, alumni, and donors. The Band schedule for 2013 included a significant number of alumni and donor events, including an event during the trip to the California game in September. After a full day, including early morning travel to California, Band members remained awake for nearly 24 hours in order to perform at a donor event in Los Angeles, and the next day traveled several hours by bus to San Francisco. Although Band members did not express concerns with performing for the University, the primary interaction of the Band with the Office of the President and University Advancement is for performance purposes, not classroom learning. Coordination with these offices is clearly needed; however, neither office provides an administrative home nor the academic support required by the Band.

3. Band as a Student Organization

Because the Band spends a significant amount of time together outside of class, parallels have also been drawn between the Band and student organizations, including Greek organizations. Student organizations and Greek organizations receive support from the Office of Student Life, including staffing dedicated to supporting these organizations and specialized training to aid with the organization's success. With expertise in engaging college students that was acknowledged in many interviews and its focus on the student experience, the Task Force discussed with interviewees whether the Band's function made the Office of Student Life the best administrative home for the Band.

Much like the Department of Athletics, the Office of Student Life does not have experience teaching either music or marching to students and few believed that this was an appropriate administrative home for the Band. However, the ability to conduct successful and thoughtful presentations geared towards students, as well as staff experience in working with students makes the Office of Student Life a significantly under-utilized resource for the Band.¹³⁵

E. University Oversight

The oversight of the Band by the University during the five-year period reviewed by the Task Force has been very limited. Other parts of this report describe that over several decades the Band became isolated from routine University supervision, beginning more than 50 years ago with the separation of the Director of the Band position from the Director of Concert Bands position, and continuing through Dr. Woods's "circle the

¹³⁵ Many current students noted that 2014 presentations given by the Office of Student Life's Counseling and Consultation Services were both positive and informative.

wagons”¹³⁶ approach to keep Band matters within the Band. Personality differences, differences in the quality of facilities, the physical remoteness of the Band’s rehearsal space, and resentments over the Band’s fame and funding all have been noted as factors for the Band’s shift away from University oversight. The Task Force evaluated the effectiveness of the University’s oversight during the last five-years by reviewing how specific incidents were handled: Midnight Ramp, known incidents of alcohol abuse, the reporting of sexual assaults, and Band participation in a cultural survey.

1. Midnight Ramp

A recurring question of the Task Force was “How could these behaviors have occurred for decades without anyone from the University outside of the Marching Band learning of them?” Many persons interviewed by the Task Force stated that Midnight Ramp was known to University personnel outside of the Band. The Task Force has found that at least since 2009, the existence of Midnight Ramp was known to the School of Music but that it is still unclear whether anyone outside of the Band knew that students participated in their underwear.

During the 2009 Midnight Ramp event, University Police Department officers were called to the Band Center because a Band member was so intoxicated that he required medical assistance.¹³⁷ According to the officers, when they arrived at the stadium, they observed many drunken Band members, including some who had to be supported by putting their arms over other students. The officers stated that when they attempted to determine why the Band members were there and why many of them were drunk, a Band member belligerently told the officers that the event was a Band secret that they did not have a right to know. The intoxicated student was transported by ambulance to a hospital, and he and the belligerent student were referred to the Office of Student Judicial Affairs for a hearing.¹³⁸ The officers did not see any students in only their underwear.

Forty-eight hours following the event, then-Director of Student Judicial Affairs, Andrea Goldblum, received a letter from Dr. Woods (sent in an e-mail from Mr. Waters) contesting the truthfulness of the information contained within the police report. Dr. Woods’ letter stated that the Band members’ access to the stadium had been authorized. Although neither Dr. Woods nor Mr. Waters were present during the incident, the letter also stated that no alcohol had been served or

¹³⁶ During interviews, many stated that Dr. Woods’s oft-repeated philosophy for handling Band matters was to “circle the wagons” and that this philosophy was shared directly with University administrators. This philosophy remained with the Band following Dr. Woods retirement and the Director of the School of Music cited increased transparency and abandonment of the “circle the wagons” philosophy as an area for improvement in Mr. Waters 2012-2013 performance evaluation. Appendix X.

¹³⁷ See the Band Traditions section for a full discussion of this incident.

¹³⁸ Three months after the Midnight Ramp alcohol incident, Mr. Waters received an email from a parent who had submitted an email to the University’s First-year Experience program regarding concerns she had about her son trying out for the Band. The parent stated that her child wanted to try out for the Band, but that knowledge of new member hazing and excessive alcohol use in Band housing discouraged her child from trying out. In response, Mr. Waters informed her that her information regarding hazing and alcohol use was incorrect and that underage Band students may not consume alcohol and that there is not mandatory new member hazing. He further stated that he was “shocked” that this information was “out there.”

consumed in the Stadium that evening.¹³⁹ There is no discussion of the information in the police report that other Band members were seen leaving the Stadium clearly intoxicated.¹⁴⁰ The letter was also silent about Band members wearing only their underwear to perform Midnight Ramp. It also discusses a meeting held between the two Band directors, the graduate assistant who had been “supervising” the Midnight Ramp, and the then-interim Director of the School of Music.

Following this letter, the University Police Department directly contacted Mr. Waters with information from the police observations from that evening. In response, Mr. Waters not only stated that the police report “drastically distorted” the statement of a graduate student, but cited to an internal Band “investigation” that found no alcohol was brought to Ohio Stadium.¹⁴¹ In a series of emails, Mr. Waters—who was neither present during the incident nor spoke with responding officers—insisted that the police report was incorrect, stopping just short of telling police that the written report was fictitious.¹⁴²

As a result of the Midnight Ramp incident, numerous meetings were held with the Band directing staff and the University. The Task Force attempted to interview all of the participants in those meetings. From those interviews, it appears that the participation by some Band members in only their underwear was reported to a University administrator outside of the Marching Band, but that he may not have shared this information with administrators above him. The administrator recalls receiving the information from the graduate assistant in attendance and reporting it to the then-Interim School of Music.

The then-Interim Dean of the School of Music stated that if he had received such information, he would have reported it to the then-Dean of the College of Arts and Humanities. However, he does not have a specific recollection of being told the information or reporting it to anyone. The then-Dean of the College of Arts and Humanities refused to be interviewed by the Task Force. The attendees in the resulting administrative meetings with the Band directing staff told the Task Force that the focus of the meetings was preventing a recurrence of alcohol abuse and that they were not informed by either director that some Band members participated in this event wearing only their underwear.

¹³⁹ Appendix Z.

¹⁴⁰ This point is raised in Ms. Goldblum’s email response as the larger concern regarding the events that evening. In response, Dr. Woods and Mr. Waters stated that while it is possible that other students at were intoxicated for Midnight Ramp, there is no way to prove that the police saw other intoxicated students leaving Ohio Stadium.

¹⁴¹ Mr. Waters’ treatment of this matter is similar to a June 2012 incident occurring at a Squad Leader retreat at a hotel. The bill for three Band member hotel rooms, paid for by the University, included \$70.90 in charges for alcohol missing from the mini bar(s). Citing his own investigation, Mr. Waters requested the charge be disputed by the University as the Squad Leaders assured him that they had not consumed anything, although they had opened the mini bar(s) and it appeared that some alcohol was missing.

¹⁴² In an email to the director of the graduate program for the School of Music, however, Mr. Waters stated that he was “profoundly disappointed in the complete falsehoods stated in the police report.”

Following the 2009 Midnight Ramp incident, several changes were made to the event in order to ensure that another alcohol incident did not occur. Referencing conversations from the previous year, the new interim-Director of the School of Music contacted the Band in August of 2010 to remind them about previous discussions regarding the timing and Band oversight for the event. Dr. Woods responded by informing the School of Music that the timing of Midnight Ramp was changed to directly following Fesler Night,¹⁴³ all of the directing staff would be in attendance, and that the University Police had been notified of and approved the date. The interim-Director thanked Dr. Woods for implementing these precautions and copied the then-University President, then-Executive Dean for the College of Arts and Sciences, and the Divisional Dean for Arts and Humanities on his response. In 2011, a reminder email was sent by the Band to School of Music leadership notifying them of the date for Midnight Ramp.

Although leadership of the Band and the School of Music leadership met to discuss the event, from interviews, it appears that the full scope of activities occurring during Midnight Ramp—including that some Band members wore only their underwear—was not shared with University leadership, allowing for the event to continue for another five years with only Band leadership oversight.

2. Alcohol Abuse

The excessive use and abuse of alcohol among Band members was also brought to the attention of University personnel on at least two occasions.¹⁴⁴ In autumn of 2010, the Band's honorary fraternity, Kappa Kappa Psi, held its annual dance at the Ohio Union.¹⁴⁵ Students told the Task Force that members of the Band arrived at the Ohio Union highly intoxicated and Band members were vomiting in the restrooms during the dance. Intoxicated Band members also unintentionally broke several dishes belonging to the Ohio Union in the bathrooms. The behavior of the Band was observed by the former Director of the Ohio Union, who spoke with the Director of the Band and held a meeting with the leadership of Kappa Kappa Psi following the Band Dance. During this meeting, leadership for Kappa Kappa Psi admitted wrong-doing and was asked to submit an action plan for change in the future. The Task Force was provided no information of further action by the University regarding this behavior.

The following spring, in April of 2011, the national chapter of Kappa Kappa Psi, placed the University's Eta Chapter on suspension following an incident involving unauthorized alcohol use by Band members at a Kappa Kappa Psi regional conference. As part of the suspension notification letter sent to the Director of Bands with copies to the Director of the Band, the Office of the President, and the Office of Student Affairs, Kappa Kappa Psi was unable to hold meetings and was investigated by the national chapter. The investigation was

¹⁴³ One University administrator noted that he had asked Dr. Woods about what Fesler Night was previously, to which Dr. Woods responded that it was just something that the Band does without any further explanation.

¹⁴⁴ For a more in depth review of the use and abuse of alcohol within the Band, see the Band Behavior section.

¹⁴⁵ A full discussion of the Band Dances can be found within the Band Traditions section.

concluded approximately two weeks following the issuance of the suspension, and the status of the fraternity was changed to probation. The probationary status required the chapter to attend an alcohol abuse and prevention workshop sponsored by the University's Student Wellness Center and for three students to attend individual alcohol awareness programs. Kappa Kappa Psi was removed from probation in 2012.

3. Incident Reporting

Reporting of incidents by Band leadership to University administrators was also closely reviewed by the Task Force, including three sexual assault incidents. The reporting, required under University policy and by law, provides some of the most involved interactions that University personnel had with the Band during this time period. The Task Force is aware of three incidents of sexual assault that occurred in the Marching Band or Athletic Band during the five-year period: a March 2011 incident involving members of the Marching Band, a March 2013 incident involving members of the Athletic Band, and an October 2013 incident involving members of the Marching Band.

During the course of the Task Force investigation, the Task Force learned of a sexual assault reported to Mr. Waters that had not been reported to, or investigated by, the University. The March 2011 assault was first reported to Mr. Waters in March of 2012 by a female Band member. Shortly after the female spoke to Mr. Waters, the accused male Band member contacted Mr. Waters about the assault and disputed the information the female reported to Mr. Waters. In response, Mr. Waters notified the accused male student that he was required to follow University protocol and that the matter was out of his hands.

Three months after receiving this report, the female student again contacted Mr. Waters when the accused male student was permitted back into the Band for the autumn semester. In his response to the female student, Mr. Waters explained that he told the female Band member that he would report the information through proper channels, which he states he did; however, the final decision was to allow the accused male student to try out as it was a "he said/she said case." Further, Waters stated that because the female did not file a police report or formal complaint, no formal action could occur by the Band. He concluded by noting that if the female student would like to discuss this matter further, she could contact him or the Director of the School of Music.¹⁴⁶ The female student responded by thanking Mr. Waters and stating that she should have contacted Mr. Waters to determine what resulted from the report. Despite the discussion of

¹⁴⁶ Mr. Waters included the Director of the School of Music on his response by copying him on the e-mail, and shortly after sending this email, Mr. Waters sent an email directly to the Director to remind him that this email was related to a sexual assault that had been reported to Mr. Waters. The School of Music Director responded to thank Mr. Waters for the update and that he would be happy to discuss the matter with the female Band member if she contacted him. After reviewing these emails, the Director of the School of Music told the Task Force that he did not recall the situation, but had he received this report he would have reported the incident to the Office of Legal Affairs. However, no such report was received by the Office of Legal Affairs.

University protocol and reporting, the Task Force has no evidence¹⁴⁷ that Mr. Waters reported this information to the Columbus Police Department, the Ohio State University Police Department, the Office of Student Conduct, or the Office of Human Resources.¹⁴⁸

One year after the March 2012 report, a female member of the Athletic Band reported an allegation of sexual assault to Interim Assistant Director Christopher Hoch, who then reported this incident to Mr. Waters. The incident involving a female and male member of the Athletic Band was reported to the Office of Student Conduct and, during the investigation, Mr. Waters determined that neither student would be allowed to travel with the Athletic Band to its next performance. Following his decision, the University's then-Title IX Coordinator informed Mr. Waters that the female student must be allowed to attend the trip as her non-participation on the trip raised concerns until Title IX.¹⁴⁹ Mr. Waters responded to the Title IX Coordinator that it was the decision of the School of Music, the Band, and the Athletic Department that she not attend the trip and that he would like further discussion of this decision.¹⁵⁰

Mr. Waters continued to take the position that the female should not be permitted to go on the trip. In light of his recalcitrance, the Office of Legal Affairs and the Office of Compliance and Integrity had to intervene to ensure that Mr. Waters allowed the female to attend the performance.

In October of 2013, another sexual assault occurred involving a male and female member of the Band following a row's Traditions Night. Similar to the 2011 sexual assault, alcohol abuse was involved in the 2013 sexual assault. Unlike the 2011 incident, the University was made aware of this sexual assault and an investigation and hearing was held by the Office of Student Conduct resulting in the permanent expulsion of the male student from the University. Following this incident of sexual assault, the University Title IX Coordinator and the Office of Student Conduct worked with the Director of the Band to provide a training session for the Band on alcohol use and Title IX issues in November 2013.

4. Culture Survey

The October 2013 sexual assault between two Band members also led to inquiries by University administration regarding the overall culture of the Band. At this time, University Communications spoke with Mr. Waters regarding overall

¹⁴⁷ The Task Force's review included emails, interviews, and student disciplinary information.

¹⁴⁸ Information regarding reporting incidents of sexual harassment, including sexual assault, at the University can be found within the University's Sexual Harassment Policy 1.15 and through the University's Title IX website. Further, the Ohio Revised Code Section 2921.22 addresses the failure to report a felony to law enforcement authorities.

¹⁴⁹ Under Title IX, retaliation is prohibited against a complainant of sexual harassment or sexual violence. For further information regarding retaliation under Title IX, see DOE OCR's Dear Colleague Letter: Sexual Violence (April 4, 2011), available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>, and Questions and Answers on Title IX and Sexual Violence (April 29, 2014), available at <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf> (both last visited November 12, 2014).

¹⁵⁰ The Task Force interviewed several people from the School of Music and the Department of Athletics, all of whom said they did not tell Mr. Waters or anyone else that the female member may not attend the trip with the Athletic Band.

concerns at the University administration level with the culture of the Band, including that the sexual assault incident may not be an isolated incident. A participant in this meeting recalls Mr. Waters being angered that others at the University believed the Band had underlying cultural issues and denied that anything else had taken place.

Following this meeting, a larger meeting with additional attendees occurred in early November 2013. According to one interviewee, Mr. Waters accused University Communications of creating the rumor that there were problems with the Band's culture during the meeting and that Mr. Waters treated the meeting as if its purpose were to defend that Band against any allegations. The meeting concluded without reaching a resolution. From information reviewed by the Task Force, there were no further conversations regarding the Band's culture between Band leadership and University Communications.

The Provost and Mr. Waters also met individually in November of 2013 to discuss the incident of sexual assault, future training, and the Band's culture. Although Mr. Waters indicated there had been a problem with the Band's culture approximately 15 years prior, he informed the Provost that no such issue currently existed. Instead, he stated that the information about a potential issue with the Band's culture was a rumor started by University Communications.

Following this meeting, Mr. Waters sent an email to the Provost stating he thought conducting a Band culture survey through an outside firm was a good idea and asking the Provost for an estimate on when the survey would take place. The Provost directed Mr. Waters to the Senior Vice President for Talent, Culture, and Human Resources for information regarding timeline.

Around this time, University administration discussed including the Band in a larger, planned cultural study following incidents within the University's cheerleading program in the autumn of 2013. Conversations among University administrators regarding including the Band in the scope of the cultural assessment occurred as early as January 2014,¹⁵¹ with options for next steps presented to University leadership in February 2014. However, inclusion of the Band in this assessment stalled as the focus of the consultants being considered was more athletics-based, and the Band was not a team. Additionally, because the Band was out of season, certain leaders believed that the cultural assessment of the Band should not occur until a new Band was constituted in August. Finally, as an academic unit, one interviewee stated that instead of a survey assessing the Band's leadership and culture, the Band, as an academic unit, could be examined through an internal review process. From information provided to the Task Force, it is unclear if this option was explored.

¹⁵¹ In January of 2014, the Department of Athletics requested that the members of the Band attend sexual harassment training with University athletes. The Band leadership questioned whether it needed to have members attend this event and, in an effort to gain more information, an administrator made an inquiry noting that the Band was not a team and that the Director of the Band was not a coach. After review, it was determined that attendance at this training would be mandatory for members of the Athletic Band and optional, though strongly encouraged, for members of the Marching Band.

F. Task Force Observations: Administrative Review

The Band has become increasingly insular as Band leadership isolated the Band from the oversight of the University. The leaders of the Band served the organization for many years, with some serving for decades and others transitioning directly from Band member to Band staff. The longevity of leadership, combined with the success and popularity of the Band, created leaders who were perceived to be larger than life. As one interviewee noted, the stature of the Band Director overwhelmed the University's organization, isolating the Band from the normal University oversight structure.

Personality conflicts, concerns over funding, and disparities between the School of Music and the Band all contributed to permit the Band to successfully distance itself from oversight by the University for a number of decades. Further, it appears that the University did not assert proper oversight because of the Band's continued successful performances on the field. The function of the Band was assessed by its performances, not by the ability of its leadership to effectively operate within the University organizational structure. As long as the Band performed well, few questions were asked about the management or operations of the Band. The standard of excellence of the Band was measured by its success on the field.

For the University to exercise truly effective oversight of the Band, leadership must learn more about the organization of the Band and begin to assist the Band as it navigates its many roles at the University: as a class, a performance group, and an organization of students.

1. Structural Accountability

- Although the Task Force was told by numerous interviewees that the tensions between the School of Music and the Band were widely known by University faculty, staff, students and community members, the cited root causes of the conflict differed: some cited the School of Music's jealousy over the Band's publicity and budget, while others cited the Band's deliberate moves to insulate itself from effective School of Music oversight or collaboration. No matter what the cause, however, this rift has been very real.
- These factors led to a general abdication of effective oversight by the School of Music.
- It must be noted that Mr. Waters' unconventional appointment and national acclaim also helped the Band to remain isolated from effective oversight because others in the University, outside the organizational chain of command, were now increasingly working with the Band and championing its success.
- Band student staff, who are enrolled in this class, must be present at class time (i.e. Band practice and performances). The need for professional financial and administrative processes, supervised by full time professionals, was a need observed by many administrators who dealt with the Band.

- While several explanations were offered as to why the Director of the Band reports directly to the Director of the School of Music, the Task Force’s review reveals that this administrative structure appears to be too far removed from effective oversight.
- Fractured lines of authority and accountability have exacerbated the Band’s organizational isolation within the University. Accountable for working with three units of the University, the Band been free to maneuver among these entities when the School of Music has attempted to assert some authority, the Task Force has been informed. In many ways, the School of Music’s oversight seems to be tentative at best, given the ability of the Band to maneuver among its supporters and funders to achieve the result it desires.

2. Funding of the Band

- The Task Force has been told by administrators who were interviewed that the decision to hire an administrative professional has made the budgetary reporting more trustworthy and transparent when making budgetary decisions that affect the needs of the Band.
- A comparison between the quality of rehearsal space available to music majors in the School of Music as opposed to the Band—comprised of mostly non-music majors—is an irony that has not been lost on the School of Music and as such, is one of the sources of friction between the Band and the School.

3. Roles of the Band

- It struck the Task Force as it interviewed Band members and other support staff, that the nutritional and health needs of these Band members, who exhibited a great willingness to respond to the needs of the University, were neglected. Appropriate hydration during some extraordinarily hot performance days as well as adequate and nutritionally-sound food on travel and performance days did not appear to be properly appreciated or supported by the Band leadership.
- The use of the Band as a tool for student and staff recruitment and donor solicitation, as well as for creating a remarkable college and fan experience is unquestioned. The need, however, to ensure these Band members’ health and wellness, and also to respect their other academic and personal needs, must be a priority among all who seek to use the Band for appropriate reasons within and outside of the University.
- In many interviews, the Task Force has learned that the Office of Student Life has many resources that would be valuable to the Band. Its experience in dealing with student organizations and student conduct should become a resource for the Band’s administration and training.

4. University Oversight

- Mr. Waters, raised in the Band’s “circle the wagons” management style, as enunciated and practiced by Dr. Woods for years, consistently reflects this defense of the Band when it is under scrutiny. Task Force interviews and reviews of correspondence seem to reflect at least a public posture of believing the Band members, with little real investigation of facts as presented from others outside the Band. This aggressive defense of his Band ignores the reality of behaviors often exhibited by young college students and in so doing, prevents modeling appropriate behavior and disciplining inappropriate behavior. While it may gain the loyalty of Band members, it ignores the responsibility that the Band Director has to students, the Band, and to the University.
- Alcohol abuse is one of the most serious issues the Band needs to address. Two of the three reported or discovered sexual assaults of the past five years the Task Force reviewed by the Task Force occurred while Band members were intoxicated to the point of blacking or passing out. While this problem is not unique to the University, here the Band leadership failed to seize the opportunity to educate Band members on alcohol use and abuse and to create a culture where abstinence or responsible drinking is a choice which they should be able to make without incurring ridicule or peer pressure.
- Training for staff and faculty should be done to ensure that University procedures for the proper handling of sexual assaults are done.
- The University missed a number of opportunities over the last several years to inquire about the culture of the Band. The Task Force believes that the cultural survey, discussed in late 2013 and early 2014, was one such opportunity. Clearly, the administration believed that a cultural survey was necessary, though it never resolved its administrative concerns over the nature of the survey. Although it is not clear what, if anything, the survey would have demonstrated about the Band, the lack of any survey meant that the administration learned nothing about the Band.

VI. Recommendations

Leadership begins at the top. Band Directors have set very high standards of performance, and Band members have historically risen to meet those expectations as evidenced by the Band’s nationally-acclaimed performances and a dramatic rise in performance engagements. There has been, however, a chronic failure on the part of Band Directors to provide similarly clear expectations to the Band members regarding their conduct and to provide adequate training on University and Band policies, as well as relevant laws.

Compounding this failure is the insular and autonomous nature of the Band. Adequate University oversight is absent from the Band, allowing for the perpetuation of inappropriate behaviors and vestigial traditions.

System-wide changes to Band operations and a return to effective University oversight are imperative to bring excellence to all aspects of the Band, not just its performance on the field.

The findings and recommendations contained in this report are not intended to detract from the many positive traditions within the Band, nor has the Task Force made any recommendations that seek to alter the discipline, musicality, creativity, and showmanship for which the Band is renowned. Rather, the recommendations below are proposed by the Task Force to strengthen both the Band and the University by ensuring that the Band stands as a campus leader to underscore that incidents of sexual harassment, hazing, and/or hostility are not tolerated, and that should such incidents occur, the Band and its leaders and members take immediate steps to eliminate and redress such conduct.

Administrative Home of the Band

In conducting this investigation, it became immediately apparent that one of the most important recommendations the Task Force would be called upon to make was the one addressing the Band's decades-long insularity, leading to an independence from University oversight and accountability. Because the Band has responsibilities to the School of Music, the Athletic Department, the Office of Advancement, and the President's office, the Task Force has had to evaluate whether or not the Band should continue to reside within the School of Music or whether there is a more appropriate placement within the University's organizational structure to ensure effective accountability and transparency.

There are many good reasons to house the Band structurally within any of the above four entities. For example, the Band's performances are closely tied to the Athletic Department; the Band regularly serves as a vehicle to attract donors for the Office of Advancement; and the Band has been often used by the President as an ambassador to recruit students, brand the University nationally, and to celebrate the University's accomplishments. Finally, currently housed in the School of Music, it provides a performance platform for musicians, as well as experience for the School of Music's Graduate Assistants.

Regrettably, as discussed earlier in this report, tensions have existed between the Band and the School of Music for decades. Longstanding personality differences, mixed with unclear or unenforced lines of accountability have all helped facilitate the gradual and, it appears, often deliberate, move by the Band to isolate itself and secure the Band from University oversight. Budget and staff deficiencies, as well as the Band's performance excellence, have helped fuel the Band's isolation, masking problems existing within the Band. In short, as long as the Band was performing well, the Band and its Director could and did become iconic, untouchable, and independent of effective University oversight. When Director Waters assumed the leadership of the Band in 2012 and it began to perform creatively groundbreaking performances, the Band received national acclaim and was subjected to new scheduling and performance pressures. These pressures built to the point where the Band's excellence in performance could no longer mask its organizational, legal, and management deficiencies.

Recommendation 1: The Band should remain in the School of Music

As a result of the Task Force's work, the Task Force recommends keeping the Band housed within the School of Music. In light of the historic troubled relations between the Band and the School of Music, the Task Force recommends certain safeguards to the University to ensure

accountability and appropriate University oversight, while attempting to avoid future problems based upon personalities and professional jealousies.

Placement of the Band within the School of Music permits the School of Music to provide music tutelage to Band members when needed. The School of Music also provides Graduate Assistants to the Band; these Graduate Assistants provide support for the Band while gaining needed experience for a well-rounded musical education. Additionally, because the Band is an academic class, the School of Music provides an academically-aligned home for Band members who receive college credit for time spent in the Band. Most importantly, as an academic class, the School of Music affords the Band members necessary protection from the well-intentioned, but sometimes excessive, utilization of the Band and its members. The Band often experiences long performance and travel days, inadequate nutrition and hydration, and a very busy schedule. The School of Music can help manage this busy schedule by placing important limits on these always-willing performers.

Administrative Oversight and Management of the Band

Recommendation 2: Create a Provost-led Band Coordinating Committee

Given the historic failings of effective oversight and the multiple masters the Band serves, the Task Force makes the following critical recommendation to ensure proper accountability by the Band and the School of Music, to bring the Band back into the University's structure of accountability, and to meet the University's mission of fostering the scholarly and civil development of students in a safe and secure learning environment.

The University should create a Provost-led Band Coordinating Committee ("BCC") as follows:

1. In recognition of the multiple constituencies served by the Band, appoint the following parties (or their designees) to the BCC: the President of the University, Director of the School of Music, Senior Vice President for Advancement, Vice President for Student Life, and Director of the Band.
2. As one of the most critical recommendations in this report, the Task Force strongly recommends the University require the BCC to meet at least monthly (or more as needed) during autumn semester, with continued regularly-scheduled meetings throughout the remainder of the school calendar.
3. The BCC's responsibilities would include, but are not limited to, coordinating the following:
 - a. Policies and procedures related to the use of the Band, particularly as it relates to the Departments of Athletics and Advancement, the Office of Student Life, the School of Music, and the President's office.
 - b. Band performance needs.
 - c. The health and well-being of Band members.
 - d. Accountability measures regarding budget, performance, and scheduling.
 - e. Legal and University policy compliance and training of the Band and its staff that

covers, but is not limited to, Title IX, sexual harassment and assault, the University Student Code of Conduct, the Band's Standards of Behavior and PnPs, anti-hazing, alcohol and drug use and abuse, and time and stress management.

Written Policies and Training of Band Staff

Recommendation 3: Hire a Compliance Officer

The Band should hire a Compliance Officer. The primary responsibilities of this individual would be to ensure the Band is compliant with Ohio and federal law, University and Band codes and policies, and to institute regular mandatory training for Band members and staff. Secondary responsibilities could be determined as needed by the Band Director. The Compliance Officer should work regularly with Student Life and the Office of University Compliance and Integrity and follow all required reporting protocols.

Recommendation 4: Clarify Band Policies and Procedures

Generally, Band policies should be reviewed and re-written to ensure clarity, and should be written in easy-to-digest language that effectively articulates what is and is not acceptable behavior.

The Band's PnPs need to clearly indicate that they apply to all Band members at all times, regardless of whether they are on "Band time" or "personal time."

The PnPs should also place a greater emphasis on referring students to the many resources the University offers to other student groups (e.g., Athletics, Greek life), including external points of contact for the Band in Student Life, the Office of University Compliance and Integrity, and peer counselors.

Much of the bad behavior—including sexual assaults within the Band—has been fueled by alcohol. Accordingly, the Band Director, at appropriate times and in relation to key events (e.g. Make the Band Night, Fesler Night, Band Dance) should clearly reinforce the PnPs by telling the Band members:

- Underage drinking and hazing are not permitted, and that anyone who participates in either one could be expelled from the Band or receive other significant discipline;
- To report directly to the Compliance Officer anything that occurs which causes them concern or makes them feel uncomfortable; and
- There will be significant consequences for anyone who violates the Code or PnPs (and escalating consequences for those that violate on multiple occasions).

Recommendation 5: Create mandatory training for Band Directors and staff

All Band Directors and staff should undergo regular training that covers, but is not limited to, Title IX, sexual harassment and assault, the University Student Code of Conduct, the Band's Standards of Behavior and PnPs, anti-hazing, alcohol and drug use and abuse, and time and stress management. The training should also include how to identify, handle, and report these issues.

Recommendation 6: Require “refresher” trainings for Band Directors and staff

After autumn semester, hold one or more additional refresher training sessions for at least the Band Directors and staff, chaperones, physical therapists and volunteers on Title IX, sexual harassment and assault, the University Student Code of Conduct, the Band’s Standards of Behavior and PnPs, anti-hazing, alcohol and drug use and abuse, and time and stress management. These groups of individuals are often in close contact with Band members and are in the best position to observe Band member conduct on a day-to-day basis.

Recommendation 7: Require Band staff to attend Squad Leader training

Squad Leaders should receive significant training in the summer that includes, among other things, training on Title IX, sexual harassment and assault, the University Student Code of Conduct, the Band’s Standards of Behavior and PnPs, anti-hazing, alcohol and drug use and abuse, and time and stress management. Band leaders should consult with the many University resources available for such training including Student Life, the Office of University Compliance and Integrity, the Office of Human Resources. Band staff should be required to attend the Squad Leader trainings in order to understand the training that the Squad Leaders are receiving, and to address questions that Squad Leaders may ask may to obtain further insight into Band activities.

Recommendation 8: Create a master training calendar and an internal tracking system

The Band should create a clear and concise master calendar, as well as a tracking system, for training given to Band directors, staff, and members. The tracking system should ensure that the trainings are completed and that attendance/completion is noted for every director, staff member, and Band member. This will help to ensure regular training, provide evidence that such training has been completed, and allow both the Band and the University to quickly identify any individuals who have missed required trainings.

Recommendation 9: Band Staff should learn row traditions

The Band directors and the Compliance Officer should meet individually with Squad Leaders at the beginning of each season to learn row traditions and make appropriate modifications, including ending inappropriate traditions, and to make clear to Squad Leaders that they will be held accountable if inappropriate traditions continue.

Training of Band Members

Recommendation 10: Train Band members on both performance and conduct

Band members need to receive training that provides clear expectations, not just about their musical and marching performance, but also about their behavior and conduct in uniform and “off the field.” Band members are important ambassadors to the University and are utilized to aid the University in fundraising and recruiting, and as such, their behavior must parallel the excellence in performance they display on the field.

Recommendation 11: Allow Band members to self-nominate for Squad Leader positions

The Task Force recommends allowing for self-nomination for the positions of Squad Leader and Assistant Squad Leader. The current system by which candidates for Squad Leader can only be

nominated by the members of their rows could result in row members going along with problematic behavior in order to remain popular.

Recommendation 12: Update Squad Leader application materials and interview process

Conduct a thorough review of Squad Leader application materials and the interview process and revise as necessary. The Band should construct materials to include questions that will shed light on an applicant's ability to be an effective leader not only in Band performance, but also in Band conduct.

Recommendation 13: Conduct summer training sessions for Squad Leaders

In conjunction with the Compliance Officer and representatives from Student Life and the Office of University Compliance and Integrity, conduct Squad Leader training sessions during summer sessions prior to the Squad Leaders assuming row leadership duties. Training should be interactive, including role-playing, and should cover topics including, but not limited to, Title IX, sexual harassment and assault, the University Student Code of Conduct, the Band's Standards of Behavior and PnPs, anti-hazing, alcohol and drug use and abuse, and time and stress management.

Recommendation 14: Provide training in one to two hour sessions rather than all at once

Squad Leader training should be conducted in one to two hour modules rather than all at once for better retention. This training should be in addition to any training the Squad Leaders may receive in their annual leadership retreat. The existing Squad Leader retreat should complement the training modules, not serve as a substitute for them.

Recommendation 15: Provide initial training to all Band members the first week of classes

All Band members, including Squad Leaders and Assistant Squad Leaders, should receive training on Title IX, sexual harassment and assault, the University Student Code of Conduct, the Band's Standards of Behavior and PnPs, anti-hazing, alcohol and drug use and abuse, and time and stress management the first week they are in the Band. Band Directors and staff should be required to attend this training. As part of this training, Band members should be given the name and contact information for a male and female point of contact from both Student Life and the Office of University Compliance and Integrity. These individuals could be invited to attend and/or speak at this training in order to make face-to-face contact with Band members.

Recommendation 16: Require training for Athletic Band members

As noted, the Band Director is also responsible for the Athletic Band. Although the Athletic Band is outside its jurisdiction, the Task Force nevertheless recommends that Athletic Band members receive the same training as Marching Band members.

Recommendation 17: Notify Band Director of incidents involving Band members

The Office of Student Conduct and University Housing should track student disciplinary issues through its existing internal, online system. The Office of Student Conduct should add a field within the system to notate whether a student is a Band member. This would then allow for the Office of Student Conduct to alert the Band Director of any documented incidents or University disciplinary actions involving Band members.

Miscellaneous Training

Recommendation 18: Require training for bus chaperones

The Band should ensure that all bus chaperones are trained on acceptable and unacceptable bus behavior. The PnPs prohibit “[i]nappropriate bus or airplane behavior including excessive noise, offensive language, hazing, or any activity creating an unsafe or socially uncomfortable environment” and provide that any such behavior could “result in disciplinary action, including suspension or expulsion from the band.” Bus chaperones who fail to enforce the PnPs should be replaced.

Recommendation 19: Provide an orientation for Band parents

Band parents should be provided with information on the Band, Band schedules, and a description of training that has been and will be provided to their children, the Directing Staff, Chaperones, Volunteers, and Squad Leaders on Title IX, sexual harassment and assault, the University Student Code of Conduct, the Band’s Standards of Behavior and PnPs, anti-hazing, alcohol and drug use and abuse, and time and stress management.

Recommendation 20: Provide improved training resources to Band Candidates

The Band should modify its website for prospective Band members to include written and video training materials.

Training materials on the site could be as simple as a recording of a University representative making relevant presentations on critical topics, or the University could consider creating online webinars, with the ability to pose questions to the presenters. The webinar could be recorded so it would be available on demand.

This approach would provide a basic level of training to the candidates before Candidate Days and tryouts without requiring the candidates to stay on campus or to participate in the training at a particular time of day. Topics should include Title IX, sexual harassment and assault, the University Student Code of Conduct, the Band’s Standards of Behavior and PnPs, anti-hazing, and alcohol and drug use and abuse.

The online aspect (rather than through a mailing) saves the University time and expense and eliminates the need for additional staffing to handle and track a mailing.

Band Traditions

Recommendation 21: Create clear guidelines for Fesler Night videos

In consultation with the Compliance Officer, and before rows begin creating their Fesler Night videos, members should be provided with clear guidelines as to the content of the videos. These guidelines should be developed by the Compliance Officer.

Row videos should be carefully screened by Band staff in conjunction with the Compliance Officer to avoid violations of University and Band policies as well as the law. Moreover, row videos should also be screened to ensure they reflect the standard of excellence the Band aspires to meet.

Recommendation 22: Reinstitute the “Rookie Name” tradition with clear guidelines and policies

The Task Force is aware that rookie names have been banned. It is also aware that the practice is still happening and has been driven “underground.”

In light of the long tradition of assigning rookie names to new members (most of which were not inappropriate), the Task Force recommends that members be allowed to assign nicknames to new members as long as the nicknames have been reviewed by the Compliance Officer. The Band should make it clear that members will face disciplinary measures if unapproved nicknames are used.

Recommendation 23: Ban Rookie Tricks, Rookie Midterms, Songbook

Rookie tricks, rookie midterms, and the Songbook should be banned. The Task Force is aware that this has already been done. The Task Force further recommends that Band Directors, in conjunction with the Compliance Officer, outline clear disciplinary action for members who violate these prohibitions.

Band Staffing and Workload

Based on interviews with University administrators, faculty, and Band staff, and the conduct problems associated with some Band members, it is clear that the Band is understaffed, particularly given the increased travel schedule and accompanying administrative needs over the past two years.

Recommendation 24: Immediately fill the position of Band Secretary

The Task Force is aware that the Band has been approved to hire a Band Secretary. Because of the immediate needs of the Band Director, the Task Force recommends that this critical position be filled as quickly as possible.

Recommendation 25: When hiring staff, consider both internal and external candidates

Despite its increased funding, the Band is still in need of improved accountability. The Band has a decades-long history of hiring from within, which has contributed to the insular nature of the Band. Internal candidates bring valuable insight and should not be excluded from consideration. However, the Task Force recommends that when hiring Band directing staff, the University consider both internal and external candidates.

Recommendation 26: Strive for diversity in Band staff

Diversity is a hallmark of the Band and the University’s student body. The Band should actively seek to reflect this diversity in hiring staff members.

Recommendation 27: Revise student staff positions

Historically and currently, many administrative responsibilities in the Band have been performed by “student staff,” who have registered for the Band as a class and are considered members of the Marching Band, but have limited availability to perform such tasks. The Task Force recommends that, dependent upon staffing needs and budgetary constraints, the Band consider adjusting the number of student staff who are members with needed student staff who are simply employees to work regularly-scheduled shifts.

Recommendation 28: Conduct an annual workload review

The Band Director and the Business Operations Manager should conduct an annual review (at least) of the administrative workload of the Band. In conducting this review, the Director and Business Operations Manager should consider whether to seek budgetary authority from the University for permanent employees or temporary workers to ensure that periods of high-volume administrative activity (such as uniform and instrument issuance after the Band is first chosen) are fully covered. The Band Director and Business Operations Manager can consider whether interns, student workers, or existing student staff can accommodate these high-volume periods of activity.

Recommendation 29: Revise Graduate Assistant program to include more graduate students

As noted in the Marching Band staffing discussion in the Administrative Oversight Review section of this report, Graduate Assistants have historically been selected by the Band Director without input from the School of Music, and typically serve two years with the Band. As a result, many graduate students majoring in music education (and moving on to jobs that often require leading a marching band) were never afforded the opportunity to work with the Band while in graduate school. The Task Force is aware that the School of Music now has input into the selection of Graduate Assistants. The Task Force recommends the School of Music continue to have input into the selection of Graduate Assistants, and consider limiting the position to one year in order to allow more graduate students the opportunity to work with the Band.

Recommendation 30: Create Internships for students from other academic disciplines

The Band should create class-credit internship positions for students from other parts of the University, such as business, communications, and computer sciences to help with administrative and logistic needs of the Band. This allows the Band to benefit from the specific skill set of each student, and provides the students with resume-building and practical hands-on experience. It will also bring fresh perspectives to assist the Band as it moves away from traditions that do not reflect the University's values.

Recommendation 31: Work with the University travel agency to manage travel logistics

The Band should work with a designated individual at the University's travel agency to handle the Band's travel. Having a dedicated contact will allow that person to become familiar with some of the Band's unique travel needs.

Recommendation 32: Develop a Communications and Media Relations Policy for the Band

The Band's increased popularity and national attention has led to increased media interest and inquiries, but no one on the Band staff has a background or expertise in communications or media relations. The Band should establish a communications policy for managing media requests in conjunction with the University. One possible solution would be to have all Band media requests filter through a designated staff person within University Communications.

Care of Band Members

Recommendation 33: Provide adequate nutrition and hydration for Band performances

The Task Force has learned that not enough serious attention has been paid to Band members' nutrition and hydration needs while traveling and performing. The Band Director and Business Operations Manager should coordinate with Athletics or other University resources to ensure the proper nutrition and hydration of Band members.

Recommendation 34: Establish a uniform policy for extreme weather conditions

Given the extreme temperatures over the course of the marching season, particularly with respect to very high temperatures at the beginning of the marching season, the Task Force recommends that the Band Director, in consultation with Athletics and University health professionals, establish an appropriate policy on uniforms during extreme temperatures.

Recommendation 35: Update contract for external performances

The Band performs at many non-University functions and has recently developed a fee structure for such performances. The Task Force recommends that the terms of outside performances be contained in a contract to be written by the Office of Legal Affairs. The contract should include requirements that adequate nutrition and hydration be provided to the Band members and staff, and that alcoholic beverages will not be provided or made available to Band members pursuant to Band policy.

Recommendation 36: Create policy to guide changing into Band uniforms on the bus

It is a long-standing practice in both high school and college band travel to have band members change into their band uniforms on the bus. This is done to avoid unnecessary travel delays or logistical challenges in identifying and reserving more appropriate changing facilities. The Task Force recommends that the Band provide appropriate clothing to be worn under Band uniforms so that, when deemed necessary by the Band Director, students can change on the bus.

Alumni Relations

Recommendation 37: Create an Alumni Liaison Committee

The alumni support of the Band and the University has been a powerful support group for current Band members. A generous group, the alumni have granted countless dollars in scholarships to the Band, purchased instruments, hosted dinners, and been the "Best Damn Fans in the Land." Many of these alumni are sons and daughters of former Band members, and many are now parents of Band members. They reflect the fact that the Band is a family. Regrettably, a few alumni have encouraged underage drinking and, at times, excessive drinking—all in the name of good fun. Some have also resisted the changes required by a 21st century university and the law. Some have encouraged traditions which are long past being considered appropriate or something the Band can look on with pride. The Task Force recommends that once selected, the Director create an Alumni Liaison Committee, composed of alumni selected by the Director. Meeting as needed throughout the school year, the Director can share concerns and plans and gather constructive suggestions from the alumni.

VII. Conclusion

Following the release of an Office of University Compliance and Integrity investigation of the Marching Band, the University President and the Board of Trustees Chair commissioned an external Task Force to conduct a cultural assessment of the Band and a review of Band oversight by the University administration. The Task Force was also asked to offer recommendations to make improvements going forward.

The Task Force was specifically asked not to address the termination of Mr. Waters in its review, and the Task Force has not done so.

Since its formation, the Task Force has personally interviewed nearly 200 people including band members, administrators, faculty, staff, bus drivers, a popular culture professor, stadium personnel and volunteers, some of whom have spent decades with the Band. The Task Force took multiple steps ensure that any interested parties could offer facts and opinions to the Task Force.

The Task Force also worked with a professional and independent online survey company to survey hundreds of Band members, past and present. The online survey results gave Band members another opportunity to express their opinions, and their responses helped inform the Task Force as it did its work.

While conducting its review, the Task Force confronted an orchestrated and sophisticated public relations campaign in support of Mr. Waters and designed to influence public opinion, shape statements given by Band members and others to the Task Force, and generally attempt to affect the Task Force's ongoing work. The Task Force was aware of these efforts as noted in this report.

Soon after beginning its work, the Task Force opened its own office on campus. The Task Force informed the University periodically regarding the pace of the review's progress, but the Task Force received no direction from the University regarding the report's findings.

A number of Task Force members were former prosecutors, with vast experience in gathering and analyzing information. The Task Force has been guided by facts, not emotion or public opinion.

Much was learned during the review with results pointing to failings on the part of the University administration, as well as the Band.

Over the years, as this iconic Band continued to provide exemplary public performances, the Task Force determined that the University did not provide adequate oversight on issues developing behind the scenes. Tensions existed between the School of Music and the Band, the University failed to insist on proper accountability and, at the same time, the Band leadership failed to insist on appropriate conduct from Band members.

The Band is a remarkable asset to the University. The Band's rows are made up of bright, hardworking and dedicated students—students whose humor and behavior reflect the college culture in which they live. Embedded in that behavior are some lingering traditions that in today's world are no longer acceptable and are inconsistent with standards of rule and law.

The Band Director and the University administration bear responsibility to ensure that Band members understand the rules of appropriate behavior and the standards of conduct they are expected to follow. This is no easy assignment, especially in the face of peer pressure and popular culture.

Band members, alumni and university personnel have encountered a period of adversity this summer and autumn. This adversity, as well as the work of the Task Force, has occurred during the busiest time of year for the Band and University, and the Task Force attempted to be sensitive to this while doing its job.

The Task Force is impressed with how well so many have handled this adversity. The Band's performances have remained remarkable. And hundreds of very busy and, quite often, upset people took time to cooperate fully with the Task Force. The Task Force is grateful for this.

It is also obvious to the Task Force that the Band's pride is unwavering—matching the unwavering, support and admiration the Band receives both inside and outside the University. The Band's well-deserved reputation for excellence, earned over a long period of time, remains intact.

The Task Force endeavored to operate openly, fairly, and with all due diligence. We hope all interested parties find the Task Force's report useful as the University "turns the page" and takes steps to ensure continued success by the Band.