

August 30, 2021

Re: External Investigation into Discrimination and Harassment Concerns

Dear Current and Former Members of the Northwestern University Spirit Squad,

As you know, in February 2021, the University hired Debbie Osgood to conduct an independent investigation into concerns of race and sex discrimination and harassment raised by current and former members of Northwestern University's Spirit Squad (the cheer team and mascots). Specifically, Ms. Osgood was asked to learn whether Spirit Squad members had concerns of discrimination or harassment that they had not previously raised and/or concerns of discrimination or harassment that were previously raised but, in their view, not adequately addressed by the University. Ms. Osgood reached out to 39 current and former members of the Spirit Squad to request an interview. Eleven current and former Spirit Squad members (nine cheerleaders and two mascots) and one parent agreed to participate and were interviewed by Ms. Osgood, who also interviewed University staff members with possible knowledge of and/or involvement in the alleged discrimination and harassment of Spirit Squad members. Ms. Osgood completed her investigation in August 2021 and provided the University with her conclusions and recommendations designed to stop any discrimination or harassment of the Spirit Squad and prevent the recurrence of discrimination or harassment.

Below you will find information regarding previous actions taken by the Office of Equity and Department of Athletics and Recreation to address reports of discrimination and harassment about the former cheer coach, athletics staff, and fans (including additional information on the Office of Equity's 2020 investigation into allegations of harassment and retaliation against the former cheer coach); Ms. Osgood's findings in the February 2021 independent investigation; Ms. Osgood's recommendations arising from the investigation; and steps taken by the Office of Equity, Department of Athletics and Recreation, and Department of Human Resources after receiving Ms. Osgood's recommendations. All of the recommendations made by Ms. Osgood are either complete or will be in place prior to the Spirit Squad's first appearance on Friday, September 3, 2021.

As I have said in the past and repeat with sincerity for myself and on behalf of Dr. Derrick Gragg (our new Vice President for Athletics and Recreation) and the University, we care about you deeply as students and people, and we know you have experienced pain and frustration. For that, we are truly sorry. We specifically acknowledge the Black members of our Spirit Squad who felt they had to alter their hairstyles to be included or felt marginalized in any way. Putting you in that position is unacceptable. Let me be clear: Each of you deserves to be treated with respect, then and now. We are committed to ensuring that happens going forward.

I. Introduction

As noted below in Section IV, Ms. Osgood made the following three recommendations related to sharing the results of her investigation and the investigation conducted by the Office of Equity in 2020: 1) "The University's Office of Equity should provide written notice to the Complainants [in Ms. Osgood's investigation] who raised new sexual harassment and race discrimination allegations."; 2) "The University's Office of Equity should provide written notice to all of the

students and parents interviewed by [Ms. Osgood].”; and 3) “The University’s Office of Equity should provide written notice of the findings in its 2020 investigation to the members of the Cheer Team who were discriminated, harassed and/or retaliated against by the former Coach.”

Ms. Osgood’s recommendations are consistent with University policy, which states that notifications of outcomes are provided only to complainants and respondents. Instead of providing three different sets of notifications, and in an effort to increase transparency, the University is providing the notifications recommended by Ms. Osgood to all 39 individuals she reached out to in connection with the investigation, even though most of those individuals did not participate in the investigation and that is not the usual practice in discrimination or harassment matters.

II. Previous Actions Including the Outcome of the Office of Equity’s 2020 Investigation

In early 2019, the Office of Equity became aware of concerns of discrimination and harassment raised by some members of the Spirit Squad, including allegations of sexual harassment by fans. Consistent with the Office of Equity’s policies, in order to address the concerns and stop any potential discrimination or harassment, the Office of Equity worked with the Department of Athletics and Recreation to take the following steps in 2019:

- Ending the practice of having the Spirit Squad attend tailgating events;
- Removing language from team guidelines that prohibited certain hairstyles (braids and natural hair styles) and other appearance-related requirements;
- Establishing a Spirit Squad leadership council, made up of representatives from the Spirit Squad to provide feedback to Athletics Department leadership;
- Having several educational conversations with the coach about the University’s expectations concerning discrimination and harassment;
- Providing training to staff in the Department of Athletics and Recreation and the Spirit Squad on discrimination, harassment, and sexual misconduct, including the reporting obligations for certain staff; and
- Designating a staff member in the Department of Athletics and Recreation to have more oversight of the Spirit Squad.

In late May 2020, the Office of Equity received additional reports of discrimination, harassment, and retaliation against the coach that took place during the 2019 – 2020 academic year. The Office of Equity spoke with 13 current and former students. Given the nature of the allegations (including the fact that they were similar to previous allegations the Office of Equity addressed in 2019), the Office of Equity determined it was necessary to formally investigate the new allegations.

Specifically, the Office of Equity investigated the following allegations related to the 2019 – 2020 academic year:

1. During the 2019 – 2020 academic year, the cheer coach engaged in sex-based harassment by commenting on a student’s breasts with regard to uniform fittings in the presence of other student teammates.
2. During the 2019 – 2020 academic year, the cheer coach engaged in race-based harassment through the following conduct:

- a. In January – February 2020, the cheer coach commented on a student’s spray tan, stating that she is almost as dark as a student teammate who identifies as Black.
 - b. During the 2019 – 2020 academic year, the cheer coach touched the hair of a Black-identifying student.
3. During the 2019 – 2020 academic year, the cheer coach subjected students on the Spirit Squad to retaliation. Specifically, following an informal conversation with the Office of Equity about reported concerns, the cheer coach engaged in the following conduct:
- a. The cheer coach stated to students that she was trying to learn who had reported concerns about her conduct.
 - b. In direct relation to a concern discussed during the informal conversation with the Office of Equity about ongoing sexual harassment at tailgates, the cheer coach told the cheerleaders they were no longer able to “eat before games” because they would no longer take part in tailgating, and expressed dismay as the fans missed interacting with them during tailgates.
 - c. On February 19, 2020, the cheer coach shared a social media post with the Spirit Squad about another institution’s cheerleading team that was disbanded and commented, in part, “This is what happens, when you don’t do the job the university asks you to do...”

The Office of Equity concluded that based on the preponderance of the evidence, the coach did make a comment about a student’s breasts during uniform fittings and on other occasions. Based on the totality of the circumstances, including the impact on the individual student and students directly observing the comments, as well as that the specific comment regarding a cheerleader’s breasts occurred after the coach participated in an educational conversation and training, the Office of Equity concluded that the evidence was sufficient to support a finding that the cheer coach’s comments were sex-based and sufficiently severe and pervasive that the cheer coach created a hostile, offensive, and intimidating environment based on sex in violation of the Policy on Discrimination and Harassment.

The Office of Equity further concluded that the coach did comment on a student’s spray tan, and that the comment was based on the student’s membership in a specific racial group. While one comment standing alone likely would not rise to the level of harassment, the Office of Equity concluded that the coach made the comment about the spray tan against a backdrop of several comments about appearance that witnesses characterized as upholding a Euro-centric standard of beauty, as well as conduct that marginalized Black-identified cheerleaders. Those comments included:

- In winter 2019, the coach told the team they would be more competitive if they were made up of “snow bunnies,” which the cheerleaders believed referred to being an all-white squad.
- The coach would not remember or mix up the names of Black cheerleaders stating, “I confuse you guys all the time.”
- Prior to the 2019 – 2020 academic year, the coach discouraged Black students from wearing their hair naturally. The coach suggested that Black students wear wigs, which she did not suggest to white students. To meet her standards, Black cheerleaders not only bought expensive wigs but pressed their hair to straighten it and used chemicals, often damaging their hair.

Based on the above, including that the coach made the spray tan comment after an educational conversation and training, the Office of Equity determined that the coach's conduct was directed at students, based on race, and negatively impacted their willingness to participate in the program. Accordingly, the Office of Equity concluded the conduct was sufficiently severe and persistent as to create a hostile, offensive, and intimidating environment based on race in violation of the Policy on Discrimination and Harassment.

The Office of Equity also concluded that the coach engaged in retaliation by making certain comments to the cheerleaders after they reported feeling sexually harassed at tailgating events, and by posting on social media on February 19, 2020: "This is what happens, when you don't do the job the university asks you to do . . ." and referencing a cheer program at another school that lost funding.

The investigation concluded on October 30, 2020. After learning the Office of Equity concluded the former coach engaged in sex and race-based harassment and retaliation, the Department of Athletics and Recreation did not renew the cheer coach's employment contract, effectively terminating her employment with the University. The cheer coach was notified of this decision on November 2, 2020. On the same date, Department of Athletics and Recreation leadership met with the Spirit Squad to notify them that the coach would not be returning and to provide a forum for questions. On November 3, 2020, the Office of Equity notified members of the Spirit Squad of the conclusion of its investigation and again provided information about the University's non-retaliation policy to ensure they felt supported and should not be subjected to retaliation for participation in the investigation.

III. Outcome of Ms. Osgood's Investigation

Ms. Osgood looked into five reports of sexual harassment and four reports of race-based discrimination or harassment in her investigation. Each of the nine allegations are below with information Ms. Osgood gathered during her investigation and her conclusions on each allegation.

A. Alleged Sexual Harassment

i. Tailgating.

Female members of the Spirit Squad alleged that they were subjected to sexual harassment by fans at tailgating events. Ms. Osgood determined that the alleged misconduct was addressed specifically by the University's spring 2019 decision to end participation by the Spirit Squad in tailgating events. Ms. Osgood found that the University's action stopped this specific form of sexual harassment (sexual harassment at tailgating events) and was reasonably calculated to prevent it from recurring in the future and that the team members interviewed confirmed that the tailgating appearances were discontinued.

ii. Games and Donor, Alumni, and Other Events.

Female members of the Spirit Squad alleged that they had been subjected to sexual harassment at football games and donor, alumni, and other events. Ms. Osgood determined that this alleged misconduct, if substantiated, would constitute a violation of the applicable *Sexual Misconduct*

Policy and that many of these allegations were not previously raised by Spirit Squad members and therefore were not addressed by the University, including in the Office of Equity's 2020 investigation.

Specifically, two members of the Spirit Squad indicated to Ms. Osgood that they had experienced sexual harassment at games and donor, alumni, and other events and wanted to be considered Complainants for this allegation.

One student was a member of the Spirit Squad for the 2017 – 2018, 2018 – 2019, 2019 – 2020 and 2020 – 2021 seasons. She stated that, at one away football game in particular, fans from the opposing team directed sexual comments to her and taunted her throughout the game, and that the coach was aware of this situation but did not do anything to try to stop it. The student revealed that she was also subjected to sexual comments and touching by alumni and donors during appearances at the N-Club and at events that took place when the team travelled with the football team or the basketball team for tournaments or championship games. The student did not report this sexual harassment to the former coach or anyone at the University at the time because she believed that this was a common, expected part of the cheerleader experience. She based this belief, in part, on the fact that during initiation night for new cheerleaders, the coach told the team that they would experience “creepy fans” and the coach and the team members joked about this.

The student stated that she went to the N-Club a handful of times each season and experienced sexual harassment by the donors and alumni that were present. She stated that this happened mostly in her first and second years and a little in her third year (the team did not make any appearances in the 2020 – 2021 season because of the COVID-19 pandemic). She recalled that at the N-Club, there would be hands on her lower back or hips and she would be touched when she did not want to be touched. She stated that even a photo could be uncomfortable. The student also recalled a specific occasion when the Spirit Squad was in San Diego with the football team for the Holiday Bowl game in 2018. During that trip, the Spirit Squad made an appearance at a local bar where the cheerleaders were expected to mingle and talk with the donors, alumni, and other individuals at the bar. She described her formula for these conversations in which she would say “Happy game day!” and “Are you alumni?” She stated that she hoped that she would not get touched during these situations but that in a few conversations, there would be an arm on her lower back creeping lower and lower. The student described the situation as scary and uncomfortable and stated that she would try to use different techniques, like shaking her pom poms, to move her arms and try to shake off the person that was touching her. The student also recalled that the Spirit Squad made an appearance at a bar when they travelled to Indiana for the Big Ten West game.

Another student was a member of the Spirit Squad, during the 2009 – 2010, 2010 – 2011, 2011 – 2012, and 2012 – 2013 seasons. This student served as a team mascot and asserted that she was groped by fans while in the mascot costume. This other student stated that the groping typically occurred when she was walking past a fan or taking a picture with a fan. She experienced being slapped on the butt and having people put their hands on her chest. She also stated that she was punched in the stomach on one occasion by a fan from the opposing team. She recalled that this groping happened at least once every football game and also occurred at basketball games, alumni and donor events, and parties that the mascot was rented out to attend. This student expressed frustration that she did not have any recourse to stop the touching because, as a mascot, she was not allowed to talk while in the costume.

Two other members of the Spirit Squad interviewed by Ms. Osgood confirmed that they had experienced similar sexual harassment by alumni, donors, and/or fans. One student stated that the team made several appearances in San Diego, including at bars, taverns, and a wine cellar. She also recalled the team going to a “speakeasy” during their trip to New York City for the Big Ten Basketball Tournament in 2018. The student stated that she asked herself at these events, “Why are we here?” She observed that in those environments, it was common for men to put their hands on her back when they went past her and that it was uncomfortable, although she knew that these were social gestures and she was not in any danger. Another student specifically recalled that the fans at the 2016 Outback Bowl game in Tampa, Florida made crude sexual remarks to the cheerleaders (calling them sluts and ugly).

Ms. Osgood also attempted to interview a former student who made similar allegations in a lawsuit she filed against the University and several employees, but she did not agree to participate in an interview. Ms. Osgood noted that student’s lawsuit specifically alleges, with respect to donor and alumni events, since she began on the team in the Fall of 2018, she and other members of the Spirit Squad have been subjected to sexual harassment in the form of inappropriate sexual touching by fans, donors, and alumni at University fundraising events, tailgate parties, and in the team’s appearances at the University’s “N Club.”

The team’s former coach was identified by the students as a Respondent for this sexual harassment allegation, given her responsibilities, which included supervising the team at games and arranging the team’s appearances at donor, alumni, and other events. Ms. Osgood determined that the former coach was not alleged to have engaged directly in the alleged sexually harassing conduct (*i.e.*, sexually harassing comments and inappropriate touching) and that the University’s previous actions (ending the coach’s employment) addressed the coach’s misconduct.

Ms. Osgood noted that the University does have the ability to address problematic behaviors by donors and alumni in that the University could prohibit that individual from attending any future University events, including donor and alumni activities. However, Ms. Osgood was unable to further investigate this sexual harassment allegation because, not surprisingly given the circumstances, the students did not identify any specific donor or alumni that engaged in this sexual harassment. University staff who attended many of these events and were interviewed by Ms. Osgood stated that they did not directly observe any touching or sexual comments made toward members of the Spirit Squad.

iii. Sex-based Comments.

Spirit Squad members alleged that the coach made sex-based comments about female members of the Spirit Squad. Ms. Osgood determined that the University specifically addressed this alleged misconduct in the investigation conducted by the Office of Equity in 2020 and by the Office’s conclusion, as set forth in the October 30, 2020 letter of outcome, that the coach’s actions constituted prohibited sexual harassment and therefore violated the University’s *Sexual Misconduct Policy*. Following this investigation, the University did not renew the coach’s contract, thereby ending her employment with the University. Ms. Osgood found that the University’s action stopped this specific form of sexual harassment (sex-based comments by the coach).

iv. “Sexualized” Team Atmosphere.

Several team members expressed general concern with the “sexualized” atmosphere of the Spirit Squad. For example, a former team member stated that the cheerleaders felt like “objects”. Another former team member stated her belief that the culture of the team supported sexual harassment and she did not doubt the veracity of the sexual harassment claims made by a former student who made similar allegations in a lawsuit she filed against the University and several employees. Ms. Osgood determined that the information provided about the alleged misconduct was not sufficiently specific, even if substantiated, to constitute a violation of the *Sexual Misconduct Policy*. However, Ms. Osgood noted that information provided could be considered as background to inform the actions recommended below.

v. Residence Hall Incident.

One student alleged that she and other female members of the Spirit Squad were sexually harassed by male Band members at the University’s Elder Hall during the 2017 preseason. Specifically, the student asserted that male Band members entered the women’s restroom while she was showering and/or naked, removed items belonging to the cheerleaders, and placed those items outside of the bathroom. The student also alleged that the male Band members put a paper sign over the existing sign stating that the restroom was for male Band members. The student stated that she moved out of the residence hall because of the harassment after approximately two or three weeks, which was midway through the preseason. The student alleged and Ms. Osgood confirmed that the student reported this conduct to the Office of Equity in 2020.

Ms. Osgood determined that the alleged sexual harassment by the male Band members *may*, if substantiated, constitute a violation of the *Sexual Misconduct Policy*. The student indicated that she wanted to be the Complainant for this allegation. Ms. Osgood determined the identified respondents (specifically, the male Band members who stayed at Elder Hall during the preseason in 2017) are no longer enrolled at the University and thus the University could not take any disciplinary action against them.

Ms. Osgood also interviewed the Band Director, who received an August 25, 2017 email from the student about the situation. The Band Director explained that the Athletics Department made arrangements for students to live (at no charge to the students) in the residence hall during the preseason.

The Band Director stated that after receiving the student’s email, he contacted the University’s former Director of Administrative Services, Residential Services, and the former cheer coach separately. The Band Director described the incident as a “misunderstanding”, explaining that those male members of the Band were staying on the same floor as the bathroom in question, while the female Spirit Squad members were staying on a different floor. According to the Band Director, although this bathroom was identified with a sign as a women’s restroom, the University was allowing male Band members to use the bathroom as they were the only students using that floor at the residence hall. The Band Director provided a copy of an August 24, 2017 email sent by the University’s former Director of Administrative Services, Residential Services to a male Band member staying on that floor, which stated:

So our staff have told me that some of the female athletes are using that restroom but to be honest I don't know why. You are fine to put that sign back up [indicating that the restroom was for men] ...the res life team living in the building will try and reach out to the female athletes.

On August 25, 2017, the Band Director responded by email to the student, with a copy to the University's former Director of Administrative Services, Residential Services, the former coach, and the male Band student that the University's former Director of Administrative Services, Residential Services had emailed the previous day. The Band Director wrote:

Thank you for your email and bringing this to my attention. I understand that you are on the cheer squad and I've since communicated with [the former coach] about this. I understand the situation has now been resolved.

Our staff was given the OK by Res Services to use the bathroom as male because the assigned floor was all male . . . Maybe this message didn't get to all floors of Elder. Our students should not have removed any items from the restroom without permission and the matter has been brought to their attention.

Ms. Osgood also learned that in the course of training initiatives by the Office of Equity and unrelated to the student's allegations, the Office of Equity provided sexual harassment training specifically for members of the Band in the fall of 2019 and 2020. The Office of Equity also provided sexual harassment training for the Band leaders in the fall of 2019.

B. Alleged Race Discrimination and Racial Harassment

i. Hair and Hair Styles.

Black-identifying cheerleaders alleged that they were subjected to race discrimination by the former coach because of their hair and hair styles, including being subjected to race-based comments related to their hair and being instructed not to wear their hair in natural or protective styles. Ms. Osgood determined that this alleged misconduct was specifically addressed by actions taken by the Office of Equity and Department of Athletics and Recreation. In the spring of 2019, the Office of Equity and Department of Athletics and Recreation eliminated requirements in the team contract regarding how the cheerleaders were expected to wear their hair, including the provision prohibiting braids.

In addition, this allegation of race discrimination was specifically addressed in the Office of Equity's 2020 investigation and by the conclusion, as set forth in the October 30, 2020 letter of outcome, that the former coach's actions constituted prohibited race discrimination and therefore violated the University's *Discrimination and Harassment Policy*. As noted, following the investigation, the University did not renew the former coach's employment contract and informed the team of this action. Ms. Osgood found that the University's actions stopped this specific form of race discrimination (based on hair or hair style) and was reasonably calculated to prevent this specific form of race discrimination from occurring in the future. Ms. Osgood reported that the

interviewed team members confirmed that the team contract was changed and that this specific form of race discrimination had not reoccurred.

ii. *Different Treatment and Denial of Opportunities.*

Black-identifying cheerleaders alleged that, because of their race, the former coach subjected them to different treatment and denied them opportunities that were provided to other members of the Spirit Squad. Members of the Spirit Squad stated that the former coach did not allow Black-identifying cheerleaders to stand next to one another on the sidelines or be in the same four-person stunt groups and denied them opportunities provided to other cheerleaders, including opportunities to attend donor events, to be a “flyer” in a stunt group, to travel with the team to away games, and to have their injuries taken as seriously as the injuries of other members of the team.

Ms. Osgood determined that this alleged misconduct, if substantiated, would constitute a violation of the applicable *Discrimination and Harassment Policy*.

Two cheerleaders indicated that they wanted to be considered Complainants because they were subjected to different treatment and denial of opportunities on the basis of race by the former coach while on the Spirit Squad (for one student, during the 2016 – 2017 and 2017 – 2018 seasons; for the other student, during the 2017 – 2018, 2018 – 2019, 2019 – 2020, and 2020 – 2021 seasons). Other members of the Spirit Squad interviewed by Ms. Osgood confirmed that they had witnessed and/or experienced this alleged racial discrimination.

Ms. Osgood determined that the University no longer has jurisdiction to take any disciplinary action against the identified respondent (the former coach). In addition, Ms. Osgood found the University’s actions (not renewing the former coach’s contract) stopped this specific racial discrimination and were reasonably calculated to prevent this race discrimination from reoccurring in the future.

iii. *Race-based Comments.*

One student alleged that the former coach made “racist” comments about mixed raced students. The student did not provide more specific information to Ms. Osgood about these comments, including what comments the former coach made and when the comments were made. Ms. Osgood found that the University no longer has jurisdiction to take any disciplinary action against the identified respondent (the former coach). In addition, Ms. Osgood found that: 1) the information provided is insufficient to support that the alleged misconduct, even if substantiated, was sufficiently severe, persistent, or pervasive to violate the *Discrimination and Harassment Policy*; and 2) the Office of Equity investigation and the non-renewal of the former coach’s employment contract in 2020 effectively stopped this specific form of racial harassment.

iv. *Kneeling.*

One student alleged that she and other Black-identifying cheerleaders were discriminated against by the former coach and another former staff member in fall 2017. Specifically, the student recalled a team meeting to discuss the recent public controversies concerning athletes kneeling at games to protest ongoing race issues and police brutality. The student stated that, at the meeting, the former

staff member informed the cheerleaders that the University would not support them if they chose to kneel at a football game, and that after the meeting, the former coach told the cheerleaders that they were privileged “brats” for even thinking of kneeling at games.

Ms. Osgood found that, if made, the comments by the former coach and former staff member were said to all of the cheerleaders and not directed to Black-identifying students only. Without making any conclusions as to whether such comments would have been inappropriate, Ms. Osgood concluded that these comments, even if substantiated, did not support that Black-identifying cheer team members were treated differently than other team members and thus this allegation would not constitute a violation of the University’s *Discrimination and Harassment Policy*.

IV. Ms. Osgood’s Recommendations & the University’s Follow-Up

The University carefully considered all of the information received from Ms. Osgood, and as set forth below, implemented each of her recommendations. For those reasons, and based on her recommendation, no new formal investigation is needed at this time.

However, Ms. Osgood concluded it is imperative for the University to take additional immediate steps to stop any discrimination or harassment of the Spirit Squad and prevent any recurrence of discrimination and harassment. All of Ms. Osgood’s recommendations are below, in bold. Action items taken by the University to implement the recommendations follow each recommendation in italics.

- 1. “The University should explicitly remind fans, donors, and alumni that attend its athletics events that the University does not tolerate the sexual harassment or racial harassment of its students or employees and that engaging in such conduct may result in ejection from an event and a possible ban on attending future events.”**

The University added to the “Fan Code of Conduct” announcement made at the start of all home athletic events to state the University prohibits discrimination and harassment on the basis of sex, sexual orientation, race, and all other protected classes and that such conduct may result in removal from an athletic event and a possible ban from attending future events. The Fan Code of Conduct is now also published in several places on the Northwestern Sports website, including via the [Fan Zone tab](#).¹

- 2. “University personnel should actively monitor the interactions of members of the Cheer Team with the public at all games and other team events and take effective action to prevent, stop and/or address any sexual or racial harassment. This should include having an established protocol in place for security personnel to intervene and address any sexual or racial harassment of Cheer Team members at games or other events.”**

¹ Other locations include: https://nusports.com/sports/2020/10/14/football_gameday_info.aspx, https://nusports.com/sports/2015/3/18/football_gameday_info.aspx, and <https://nusports.com/sports/2021/8/26/fan-code-of-conduct.aspx>

Field-level security at home football games will be reminded to include the Spirit Squad in their responsibilities, and the new cheer coach and members of the team will be notified where field-level security is located during the games. Similar security measures will be in place at home basketball games. If the team travels to away games, security personnel will be provided for the Spirit Squad.

In addition, the Senior Associate Vice President for Equity, or representative, will make periodic appearances at games to view fans, donor, and alumni interactions with the Spirit Squad and ensure that field-level security is accessible to the Spirit Squad.

- 3. “Cheer Team members indicated that they would like to continue to make appearances at the Wilson Club. To ensure the safety of the Cheer Team members while at the Wilson Club, University personnel must actively monitor the interactions of members of the Cheer Team with donors, alumni, or other individuals at the Wilson Club. The University should explicitly remind the Wilson Club patrons of the University’s policy prohibiting sexual harassment and the possible consequences of noncompliance (e.g., banning the individual from the Wilson Club).”**

Due to COVID-19, neither the NU Band nor the Spirit Squad will appear at Wilson Club events this academic year, with the exception of two drum majors. The Department of Athletics and Recreation will consider reinstating Wilson Club appearances as the pandemic evolves. If the NU Band and Spirit Squad resume Wilson Club appearances, the Spirit Squad will arrive and depart with the Band, not mingle in the crowd, and will be accompanied by security personnel.

- 4. “The University should end appearances by the Cheer Team at bars or similar settings where Cheer Team members are expected to mingle with alumni, donors, fans or third parties, unless these events can be adequately structured and monitored to prevent Cheer Team members from being touched inappropriately and/or otherwise sexually or racially harassed.”**

The Spirit Squad will no longer appear at events at bars and any events with alumni (for example at bowl game appearances) will be adequately supervised.

- 5. “The University should continue to communicate with members of the Cheer Team about how to report complaints of discrimination and harassment to the Office of Equity or University officials other than the team coach.”**

The Office of Equity recently met with the new cheer coach to explain her reporting obligations, and to schedule a training with the current team once they return to campus. This training will take place the week of September 6, 2021, will specifically explain the difference between a complainant and a witness, and will occur on an annual basis.

- 6. “The University should periodically check in with members of the Cheer Team about any discrimination or harassment concerns they may have. This could include conducting a formal survey or other assessment of the Cheer Team culture and challenges faced by Cheer Team members.”**

The Office of Equity will offer quarterly office hours specific for Spirit Squad members to drop in and share concerns. The first office hours session will take place in late September. Moreover, the Office of Equity is working with the Department of Athletics and Recreation to develop other mechanisms to continually assess culture. For example, end of year evaluations with members of the Spirit Squad will be conducted. These evaluations will be confidential and anonymous and reviewed by senior-level staff in the Department of Athletics and Recreation.

- 7. “The University’s Office of Equity should provide written notice to the Complainants [in Ms. Osgood’s investigation] who raised new sexual harassment and race discrimination allegations.”**

This letter constitutes the written notice. As noted above, the University is choosing to provide the notice to a larger group in order to enhance transparency.

- 8. “The University’s Office of Equity should provide written notice to all of the students and parents interviewed by the Investigator [Ms. Osgood].”**

This letter constitutes the written notice. As noted above, the University is choosing to provide the notice to a larger group in order to enhance transparency.

- 9. “The University’s Office of Equity should provide written notice of the findings in its 2020 investigation to the members of the Cheer Team who were discriminated, harassed and/or retaliated against by the former Coach.”**

This letter constitutes the written notice. As noted above, the University is choosing to provide the notice to a larger group in order to enhance transparency.

- 10. “The University—in its wide discretion to determine appropriate corrective action after a finding of discrimination or harassment and in keeping with its commitment not to tolerate any discrimination or harassment—take additional action to address the harm to individual members of the Cheer Team caused by the discrimination and harassment they experienced while on the Cheer Team. The University has taken an important step in addressing this harm by publicly acknowledging the “pain and frustration” experienced by its Cheer Team members and involving Cheer Team members in the hiring of the team’s new coach. In addition, [Ms. Osgood] recommends that the University discuss with current and former Cheer Team members additional steps that could be taken to address the impact of this discrimination and harassment. The discussion could be conducted as part of an informal process that includes, but is not limited to, a restorative circle or mediation process.”**

The Department of Athletics and Recreation collaborated with the Office of Equity and the Center for Awareness, Response, and Education (CARE) to develop a space focused on processing and healing for our Spirit Squad members. This effort started in mid-March, and included offering a series of confidential spaces for Spirit Squad members to process, find support, and connect with

each other. The first session occurred on March 19, 2021 and continued on a bi-weekly basis during the spring term. Moreover, the new Spirit Squad coach was connected with CARE so that she can understand how to best support the team as they move forward.

- 11. “The University should clarify to the Office of Equity that its *Equity Policies* provide the Office of Equity with the discretion to address allegations of discrimination and harassment against former members of the NU community.”**

The University’s Policy on Institutional Equity reads: “If the Respondent is not a member of the University community or is no longer affiliated with the University at the time of the report or at the time the Complaint Resolution Process is initiated (including when the Respondent has graduated or left the University), the University typically is unable to take disciplinary action or conduct an investigation.” The word “typically” gives the Office of Equity the authority to open investigations into situations involving former employees. While doing so is not common given the University’s inability to discipline individuals who are no longer a member of the University community, the Office of Equity can and has opened investigations to address possible systemic issues of discrimination or harassment by a former employee.

- 12. “The University’s *Equity Policies* should be revised to state that the failure of an employee to comply with the University’s mandatory reporting requirements for employees is a violation of the University’s *Equity Policies* and may subject the employee to disciplinary action.”**

*The Policy on Institutional Equity was revised to state: “All University employees (including student employees) and graduate students with teaching or supervisory authority, are obligated to promptly report incidents of discrimination and harassment of which they become aware in the scope of their work for the University to the Office of Equity unless they are a resource listed in Section II(A). Note: This does not require a person experiencing harm to report the incident. **Failure to fulfill this reporting obligation will be referred to the appropriate office for corrective action.**” This update is effective as of September 1, 2021.*

*The Policy on Institutional Equity and the Interim Policy on Title IX Sexual Harassment were also revised to state: “All University employees (including student employees) and graduate students with teaching or supervisory authority, are obligated to promptly report incidents of discrimination and harassment of which they become aware in the scope of their work for the University to the Office of Equity unless they are a resource listed in Section II(A). Note: This does not require a person experiencing harm to report the incident. **Failure to fulfill this reporting obligation will be referred to the appropriate office for corrective action.**” This update is effective as of September 1, 2021.*

- 13. “The University’s HR Office should address the possible failure of employees to carry out their responsibilities relating to the supervision and oversight of the Cheer Team.”**

Ms. Osgood reported that several cheerleaders suggested that University officials, in addition to the former coach, may also be responsible for the alleged discrimination and harassment of Spirit Squad members. Students stated their belief that, for example, someone other than the former

coach was likely responsible for drafting the no-braids provision of the previous Spirit Squad guidelines and developing other rules that were imposed on Spirit Squad members.

The students specifically named two employees (one current and one former) as possible respondents to this allegation, given their roles and responsibilities for overseeing the team and supervising the former coach, and their presence at many games. In addition, other University employees may have had oversight and/or supervisory responsibilities related to the Spirit Squad.

In accordance with Ms. Osgood's recommendation, Human Resources and the Department of Athletics and Recreation reviewed these concerns and took appropriate action relating to the possible failure of University employees in carrying out their oversight and/or supervisory responsibilities related to the Spirit Squad.

Moreover, going forward, the Spirit Squad will be overseen by the new Chief of Staff in the Department of Athletics and Recreation. The Chief of Staff reports directly to the Vice President for Athletics and Recreation.

14. “The University’s HR Office should address the possible failure of University employees to promptly report discrimination and harassment to the Office of Equity.”

The University’s current and prior Equity Policies require that all University employees promptly report “sexual misconduct” and all University employees with teaching or supervisory authority promptly report “incidents of discrimination or harassment” of which they become aware in the scope of their work for the University to the Office of Equity unless they are confidential employees. Ms. Osgood reported that University employees (one former and one current) received anonymous discrimination and harassment complaints from members of the Spirit Squad in January 2019 but the employees did not submit these complaints to the Office of Equity. (However, the Office of Equity did eventually learn about and receive these letters.) Moreover, Ms. Osgood received information that a former University employee may have received a report of the former coach mistreating and possibly discriminating against or harassing a student from that student’s parent in 2017, but did not report this to the Office of Equity.

In accordance with Ms. Osgood’s recommendation, Human Resources and the Department of Athletics and Recreation reviewed these concerns and took appropriate action relating to the possible failure of University employees to report discrimination and harassment to the Office of Equity.

Moreover, I plan to send a message to the entire Northwestern community, which includes all current students, faculty and staff, early in the Fall term to remind everyone of their obligation to promptly report discrimination and harassment to the Office of Equity.

15. “The University should address the possible failure of the Office of Equity to appropriately implement the University’s Equity Policies.”

The University's Equity Policies include specific procedural requirements relating to the evaluation, investigation, and resolution of discrimination and harassment allegations. Spirit Squad members suggested to Ms. Osgood that the Office of Equity failed to appropriately implement these procedures. Specifically, several team members stated that the Office did not address the equity concerns they raised as fully or as quickly as it should have. Spirit Squad members expressed confusion as to their roles as witnesses (and not complainants) in the 2020 investigation. One cheerleader stated that the Office of Equity held the Cheer Team complainants/witnesses to a higher standard of proof before it agreed to open an investigation (e.g., the Office of Equity wanted more examples or signatures before opening a formal investigation). One student also asserted that the Office of Equity failed to appropriately respond to her allegation of sexual harassment by Band members in 2017, which she indicated that she had raised in her interview as part of the 2020 investigation.

In accordance with Ms. Osgood's recommendation, the Office of Equity's policies, procedures, and handling of discrimination and harassment complaints are currently being examined in order to find opportunities for clarity and improvement.

Next Steps

As noted above, all of the recommendations made by Ms. Osgood are either complete or will be in place prior to the Spirit Squad's first appearance on Friday, September 3, 2021. In addition to the steps referenced above, our new Vice President for Athletics and Recreation, Dr. Derrick Gragg, recently retained a consultant with expertise in equity issues in order to ensure a Department-wide culture that reflects his and the University's values.

I want you to know that we have heard your concerns and maintain our commitment to you, as current students, alumni, and human beings. If there is anything more I can do to assist or support you, please let me know. I remain available to you whether you are here on campus or elsewhere.

I hope, also, that this letter will be the beginning of our path forward and allow for a long-standing partnership to ensure the very best experience for all Northwestern students, regardless of identification. I believe that together, we can make this happen.

Sincerely,



TiShaunda R. McPherson
Senior Associate Vice President, Office of Equity

cc: Dr. Derrick Gragg

Combe Family Vice President for Athletics and Recreation