

Exhibit U

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Via Email and U.S. Mail

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Re: Jonathan Waters – Request for Public Name-Clearing Hearing

Dear Mr. Pressley and Ms. Menkedick Ionno:

As you know, we are attorneys for Jonathan Waters, whose employment with The Ohio State University (“the University” or “OSU”) was terminated as of July 24, 2014, by letter as of that date from Joseph Steinmetz, Executive Vice President and Provost of the University. We write in connection with the University’s July 22, 2014 Investigation Report, which led to that termination (the “Report”).¹

The Report is replete with false, defamatory and stigmatizing statements concerning Mr. Waters, and has wrongfully tarnished his reputation, honor and integrity. Nonetheless – and stunningly – Mr. Waters was terminated without being afforded any opportunity whatsoever to respond to the Report or defend himself in any way. In fact, as you know, the University denied his request for such an opportunity. Mr. Waters was not even given a copy of the Report until after being notified that his employment with OSU was being terminated.

It should seem fundamental that as an extension of the State of Ohio, the University must act not only in accordance with its own policies and procedures, but also with the United States Constitution. And, “a person’s reputation, good name, honor, and integrity are among the liberty interests protected by the due process clause of the fourteenth amendment” to the Constitution. *Quinn v. Shirley*, 293 F.3d 315, 319 (6th Cir. 2002) (copy attached for ease of reference). Thus, save for exceptional circumstances not applicable here, “before a person is deprived of either a

¹ The Report is formally entitled “Investigation Report” concerning “Complaint against Jonathan Waters, Director of the OSU Marching Band.”

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liberty or property interest, he has a right to some kind of hearing.” *Id.* Thus, “when a ‘nontenured employee shows that he has been stigmatized by the voluntary, public dissemination of false information in the course of a decision to terminate his employment, the employer is required to afford him an opportunity to clear his name.’” *Id.*, quoting *Chilingirian v. Boris*, 882 F.2d 2000, 205 (6th Cir. 1989).

The University’s voluntary dissemination of the information described above, combined with its refusal to afford Mr. Waters any sort of hearing, has denied his due process rights – both before his termination and after. While the pre-termination due process may have to be addressed through the courts, the University’s subsequent, post-termination conduct warrants an immediate response. Accordingly, Mr. Waters hereby requests a name-clearing hearing, to provide an opportunity to respond to the University’s false statements and clear his name.

We request that the University promptly schedule a public hearing, at a mutually agreeable time and an easily accessible location on the University campus, moderated by a disinterested party, such as, for example, a retired judge. We further request that Mr. Waters be afforded adequate time to fully clear his name, which we estimate to be two full business days. We also request that OSU make available University personnel and officials from whom Mr. Waters seeks testimony, and that the University provide written assurance that it has not attempted and will not attempt to discourage any person from participating in the hearing. Finally, we request that OSU notify both local and national media of the date, time and location of the hearing and provide sufficient space and facilities for media presence. *See Gunasekera v. Irwin*, 551 F.3d 461, 471 (6th Cir. 2009) (adequate publicity by the university required to satisfy due process).

We would appreciate the courtesy of a response, to make the necessary arrangements, no later than September 2, 2014. Thank you for your anticipated cooperation.

Very truly yours,



David F. Axelrod

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