

May 8, 2020

Spencer Clan
Spencer.clan@uky.edu

Dear Mr. Clan:

On April 16, 2020, you met with the Office of Institutional Equity and Equal Opportunity (“Institutional Equity”) in conjunction with Institutional Equity’s review of a potential violation of the University’s *Policy on Discrimination and Harassment*. As explained during the April 16, 2020 meeting, the University received allegations that you failed to act in a way that would prevent the creation of a hostile environment on the basis of sex. Specifically, it was reported that you knew or reasonably should have known about the following events:

1. While at the UCA Camp at East Tennessee State University, the male cheerleaders hold an initiation ceremony in which new team members are given a prescribed set of clothing to wear, that specifically excludes underwear, and are instructed to remove an article of clothing if they are unable to chant the words to a lewd chant;
2. While at the team retreat, which is a University event that occurs on University property (the Lake Cumberland 4-H Camp), team members were engaging in basket-tosses in varying degrees of nudity;
3. While at the team retreat, team members were engaging in nudity while on boats, which were operated by private parties whose presence was arranged for by the head coach.

There are other concerns of which Institutional Equity is aware that do not fall within the purview of Institutional Equity but have been forwarded to the appropriate office. Discrimination and harassment are serious violations of University policy and it is the University’s policy to address incidents or comments that are inappropriate for the University environment even if those incidents or comments do not rise to the level of unlawful harassment or discrimination.

Members of Institutional Equity staff have conducted a thorough investigation into the concerns in accordance with the process outlined in University policy. In determining whether conduct constitutes a violation of the University’s *Policy on Discrimination and Harassment*, as well as other applicable University administrative guidelines and policies, University officials look at the record as a whole and at all of the circumstances of the situation. The rights of all parties are considered in conducting investigations of complaints under these policies.

Based on the information provided during our investigation and provided by team members, there was sufficient information to corroborate that those three allegations occurred. There is insufficient information to suggest the you knew or reasonably should have known about any behavior occurring on the boats or at the UCA camp. However, there is sufficient information to suggest that you knew

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or reasonably should have known that team members were performing basket tosses at the retreat while not fully clothed.

After reviewing all information provided, **Institutional Equity has concluded that there is sufficient information to support a finding that you failed to exercise a reasonable degree of control over members of your team to prevent the formation of a hostile environment on the basis of sex.** This failure to act to prevent the creation of a hostile environment by not intervening to stop the basket-tosses from occurring is a failure to properly discharge your duties as a University employee. Institutional Equity has made recommendations to your supervisor related to the outcome of this matter.

You are reminded of the University's policy against retaliation for having made a complaint of discrimination. Do not engage in a retaliatory course of action against Complainant or any individual who participated in this investigation. Engaging in retaliatory behavior or encouraging others to engage in retaliatory behavior is a violation of University policy and will result in corrective action.

The contents of this investigation are considered private and will be disclosed only to those individuals who have a legitimate business reason to know or as otherwise may be required by law.

Should you have any questions about the investigation now or in the future regarding this review, please let me know.

Sincerely,



Terry Allen

Associate Vice President, Institutional Equity